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The Solicitors' Journal

VOL. LXXX. **Saturday, August 1, 1936.** No. 31

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Current Topics.

Law Revision Committee.

It is eminently satisfactory and encouraging to deduce from the appointment of an additional member of the Law Revision Committee that the present Lord Chancellor, like his predecessor, by whom it was set on foot, regards its continuance and active service as advantageous in eliminating obsolete or obsolescent principles from our law in order to bring it into more complete harmony with modern views and necessities. Equally satisfactory is it that a jurist so well equipped as Professor Goodhart should have been selected by the Lord Chancellor to be the additional member of the Committee. The Professor is the holder of the chair of Jurisprudence at Oxford; he is the editor of the *Law Quarterly Review*, in whose pages and elsewhere have appeared from his pen many valuable suggestions for the modernisation of the law in the direction pointed out in one of the sections of the German Civil Code, which declares that "the exercise of a right which can have no purpose except the infliction of injury on another is unlawful." In his volume published a few years ago, bearing the title "Essays in Jurisprudence and the Common Law," we are given the fruit of his mature views on a host of perplexing questions, along with shrewd criticisms of the approach to these by our courts in the past. One of the most illuminating of the papers in the volume is the first, on "The *Ratio Decidendi* of a Case," which should, in the language of the Collect, be read, marked, learned and inwardly digested. In the past there has been a tendency on the part of practitioners to regard the philosophic contributions of jurists as of little practical value. That notion of impracticability attributed to such writers is passing, if it has not already passed, away. As an instance of this, reference may be made to the report of *Haynes* v. *Harwood* [1935] 1 K.B. 146—the case of a police constable stopping runaway horses and being held entitled to recover damages from their owner—where Professor Goodhart's article on "Rescue and Voluntary Assumption of Risk" was cited as of persuasive force and approved by the Court of Appeal.

Matrimonial Courts: Committee's Recommendations.

The recommendations regarding matrimonial jurisdiction contained in Pt. I of the Report of the Departmental Committee on Social Services in Courts of Summary Jurisdiction, to which we drew attention in this column shortly after the publication of the report, were mentioned in the House of Lords recently, when the Earl of Listowel asked the Government what action it was intended to take to implement them, and urged upon the Government the necessity for legislative action in order to achieve the reform advocated. The reply by the Earl of Faversham, Lord in Waiting, intimated that the Home Secretary was in full sympathy with the general trend of the report and with the objects which the Committee wished to secure, and was also conscious of the great anxiety to secure improvement in the conduct of matrimonial courts, but in view of the crowded condition of the legislative programme, the speaker was unable to make any statement on behalf of the Government as to legislation. Reference was however made to possibility of improvement without further legislation, and the desirability of putting into practice such reforms as are possible under existing conditions was emphasised. The Home Secretary, it was said, would issue a circular letter to all courts of summary jurisdiction in England and Wales, urging upon those courts the advantage of the Committee's recommendations that could be adopted without legislation, including those with regard to reconciliation, the holding of special sessions for the hearing of matrimonial cases, and the formation of the Bench to create the right atmosphere for dealing with such cases. The speaker concluded by saying that the Home Secretary trusted that there would be a readiness on the part of the justices throughout the country to give their sympathetic attention to the proposals that he intended to bring to their notice.

Autrefois Convict.

An interesting sequel to the recent decisions of the Court of Appeal in *R.* v. *Sheridan* (80 Sol. J. 535), and *R.* v. *Grant* (80 Sol. J. 535) was a statement made on 23rd July by Mr. Ronald Powell, the Westminster magistrate, when a prisoner, who had a week earlier pleaded "guilty" to a charge under the Vagrancy Act before Mr. McKenna and been remanded in order that a medical report might be obtained before sentence was passed, appeared before him. The learned magistrate observed that in the usual course he would have adopted what he believed to have been the usual practice in those courts of re-trying those cases *de novo* and finally disposing of it. Reference was then made to the above decisions in which "it was decided that a finding or a plea of 'guilty' in a court of summary jurisdiction amounts to a conviction, even though no sentence has been pronounced in respect of it." "Consequently," it was said, "where a person has been found *guilty* or has pleaded 'guilty' to an offence before a court, and is subsequently re-tried or dealt

with for the same offence by another court, that person is entitled to be acquitted on a plea of *autrefois convict*." Mr. POWELL therefore concluded that he had no power to deal with the prisoner before him, and that the only person or court who had power to dispose of the case was the magistrate or court before whom he originally pleaded guilty. The prisoner was therefore remanded to appear at some place, or on some date, before the magistrate before whom he pleaded "guilty" on a previous occasion, and by whom it was known he was convicted. The learned magistrate added that he had not had the advantage of hearing any legal argument on the point, and that, so far as he was aware, the cases to which he had referred had not been fully reported in the Law Reports. "But," he continued, "if I am right, it seems to me that this matter is of some concern to courts of summary jurisdiction, particularly to those courts where at times the magistrates are obliged to move unexpectedly from one court to another." The matter was reported in *The Times* of 24th July.

The Discretion of the Press.

IN a case heard at the Central Criminal Court, last week, where a boy of sixteen was charged with murder, counsel for the defence asked HUMPHREYS, J., to give such directions as he thought fit for preserving the anonymity of the accused, which had been safeguarded during the proceedings at the Juvenile Court by the provisions of the Children's Act. The learned judge said that in his view a judge ought not to make requests, as a judge, to the public represented by the press not to do something which in law they had a right to do, unless, in the view of the court, it was likely to interfere with public justice. "Parliament," the statement continued (we quote from *The Times*), "has thought fit to say that while a young person is before a children's court, the name shall not be published, and has carefully refrained from saying that the name of the child in any other court should not be published. The matter seems to be entirely one of good taste and good feeling, and if the press, on that account, fail to mention the name of this young man, they will take that course. If not, they will act in the other direction. It is not for me to direct them." When an application was made on the same case some days earlier, the learned judge expressed an objection to being asked to dictate to the press how they should perform their business and deprecated the idea that judges should turn themselves into a second parliament, and say that they were going to prohibit something which Parliament does not prohibit. "The press of this country, in my opinion," HUMPHREYS, J., went on, "in reporting all criminal cases, displays appreciation of the seriousness of the matter, and I do not like to dictate to them at all. Without making any order or attempting to dictate to people, I should be obliged if the press would refrain from publishing the name before I have an opportunity of dealing with the matter. I cannot stop them."

Locking up the Jury.

ANOTHER matter of general interest, which arose in the same case, may be shortly alluded to. At the close of the evidence for the prosecution counsel intimated in answer to questions from the judge that he did not think it would be proper on the evidence to ask the jury to convict the defendant of murder, but that he would ask for a verdict of manslaughter. HUMPHREYS, J., referred to the statutory requirement that in a charge of murder or treason a jury shall not separate without returning a verdict, and, on counsel for the Crown indicating in answer to a question that he did not desire the jury to be locked up for the night over the adjournment, and counsel for the defence saying that he did not think it necessary from the point of view of the interest of his client, the learned judge said (we quote from *The Times*): "Then I may do something which may be regarded by some people as irregular. To my mind it would be a perfect farce to keep this jury together at the public expense, and the inconvenience of taking people from their homes to an hotel merely because there remains on the file a charge of murder which is not going to be persisted in. I am certain that neither this nor any other jury would convict a person of murder when the prosecution do not ask for it. It has for practical purposes ceased to be a case of murder, and become one of manslaughter, so I shall say this is a case in which the jury can be allowed to separate and not be locked up." "I rather think," the learned judge added, "it has been done before, but, whether or no, I take the responsibility of doing it." The jury were admonished not to allow anyone to speak to them about the case or discuss it among themselves, as they had not yet heard the whole of the evidence.

Advertisement Hoardings: The Urban Problem.

SEVERAL interesting suggestions are made in the annual report of the Scafa Society to combat the evils of the indiscriminate display in urban areas of advertisements, and a contribution is thus made to a subject which may without extravagance be described as an element in town planning. The seizure by the bill-poster or advertisers of any vacant piece of ground, any unoccupied building or blank gable end of a house looking right down a street, and the plastering of such with "blatant posters or painted signs, very often intentionally produced in discordant colours to force attention just as the hooters of some cars are made strident and ugly for the same reason" are rightly deprecated. The securing by local authorities in special Acts of powers to make bye-laws for regulating or preventing the exhibition of advertisements "for the purposes of preserving the amenities of any street," is described as a move in the right direction, extending as it does the power of control to all business and residential quarters; but what is really needed is (it is urged) a new conception of the functions and limits of outdoor advertising in a well-ordered community. It is thought that the time has come when the national organisations of bill-posters and sign-makers should take steps, in consultation, to restrict advertising in towns as well as in the country to specified and carefully selected sites. There might, moreover, be a "hanging committee" to see that harmonious and not discordant colouring shall characterise displays. The opinion is expressed that no satisfactory solution of the problem of outdoor advertising can be found without making it a condition of the right to put up advertisements anywhere within the public view that the responsible local authority shall first have considered the application and given permission.

Queen Anne's Bounty Report.

THE Tithe Committee of the Governors of Queen Anne's Bounty make reference in their report for the past year to the Government proposals for the extinction of ecclesiastical tithe rent-charge and, while expressing themselves as not unmindful of the advantages of the final settlement of the tithe question in terms of an immediate extinction and as reluctant to take any line of action which would hinder such a settlement, they "cannot view without grave concern the serious reduction of income involved in the scheme as it at present stands." "Therefore," the report continues, "while they commend the main principles of the scheme, they do so in the earnest hope that means may be found to make the terms less severe to the Church." The report of the Governors, which was issued last week, shows that the income received during the year on their income and capital accounts amounted to £2,189,350. Disbursements totalled £2,227,423. Under the Tithe Act, 1925, and the Tithe (Administration of Trusts) Measures, 1928, £2,180,642 was received and £2,084,918 disbursed. An improvement in the collection is again reported. In the year to February, 1936, there was, in round figures, an increase of £62,000 over the collection during the preceding year, while the total exceeded by £42,700 the full sum which

fell due during the twelve months. The indications are, it is stated, that up to the time of the issue of the Royal Commission's Report, conditions were gradually reverting to normal as regards collection. The Governors express their desire to make it clear that the improvement was not effected by a general and indiscriminating resort to drastic powers of recovery.

Forestry Commissioners' Report.

READERS' attention may, perhaps, be drawn to the sixteenth annual report of the Forestry Commissioners, which was issued about a fortnight ago (H.M. Stationery Office, price 1s. net). It is not unlikely that the subject is one of interest to a considerable number of practitioners, but it is clearly one which cannot be dealt with at any length in this column. It may, however, be briefly noted that the total area planted on 30th September, 1936, the last day of the year with which the report deals, was 275,876 acres, of which 261,936 acres were planted with conifers and 18,324 with hardwoods. The figures include 261,936 acres of new planting and 13,940 of replacements. It is recorded that a total area of 106,115 acres have been planted under the scheme for assisting local authorities and private owners by means of grants on a proceeds-sharing basis. Particulars are furnished in the report of three forests set aside to commemorate the Silver Jubilee of KING GEORGE V.

Recent Decisions.

IN *Jackson* v. *Jackson and Barwell* (*The Times*, 25th July), the court declined to make in favour of the petitioner, who had sued as a poor person and been granted a decree *nisi* of dissolution of his marriage and damages against the co-respondent, an order for profit costs instead of the out-of-pocket costs usually awarded under the Poor Persons Rules. BUCKNILL, J., referred to the three grounds specified in r. 31B (2) and (3) of Ord. XVI—unreasonable defence or conduct of the co-respondent, proceedings of unusual length or difficulty, and "special circumstances"—on which profit costs might be ordered, and held that the fact that a co-respondent, as in this case, had means to pay did not amount to a special circumstance requiring profit costs to be ordered.

In *Horn* v. *Minister of Health* (p. 615 of this issue), the Court of Appeal reversed the decision of SWIFT, J., noted in this column in our issue of 18th July (80 SOL. J. 563), and held that the granting of an interview by the Minister of Health to a deputation, consisting of the mayor, town clerk and other officials of a corporation, while a compulsory purchase order under s. 64 of the Housing Act, 1925, made by the corporation was *sub judice*, did not justify the quashing of the order, which had been confirmed by the Minister. The interview was concerned with slum clearance under the Act of 1925, a subject which it was the duty of the Minister and the council to discuss together, and the order in question was not discussed, nor was reference made to it.

In *Grenfell* v. *E. B. Meyrowitz Ltd.* (*The Times*, 25th July), the Court of Appeal reversed a judgment by which the plaintiff, an officer of the Royal Navy attached to the Royal Air Force, had been awarded damages in respect of injuries caused by the entry into his eyelid of a fragment of glass from his goggles when he made a forced landing in an aeroplane. The goggles were fitted with "safety glass" lenses, but that, it was indicated, did not amount to an absolute guarantee that the glass would never splinter; at most it meant that they were as reasonably safe as proper craftsmanship could make them at the time when they were purchased. At the trial it should have been concluded on the evidence that the goods satisfied the requirements of s. 13 of the Sale of Goods Act, 1893, and the case should not have been left to the jury. Moreover, the goods were of merchantable quality within the meaning of s. 14 (2) of the same Act: see *Wieler* v. *Schillizzi*, 17 C.B. 619, 624; *Bristol Tramways, etc., Carriage Co. Ltd.* v. *Fiat Motors Ltd.* [1910] 2 K.B. 831, 841.

IN *R. & W. Paul Ltd.* v. *Wheat Commission* (*The Times*, 23rd July) the House of Lords reversed the decision of the Court of Appeal, noted 79 SOL. J. 55, to the effect that certain consignments of a substance known in the trade as "middlings," were such as to attract quota payments under s. 3 of the Wheat Act, 1932, and held that the consignments were, within the meaning of that Act, consignments of wheat offals and not of flour, and, consequently, exempt from any quota payment. But the House of Lords upheld the decision of ROCHE, J., and the Court of Appeal to the effect that the Wheat Commission was a public authority within the meaning of the Public Authorities Protection Act, 1893, and was in consequence entitled to retain against the appellants such exactions as had been made *colore officio* in respect of which a suit for recovery had not been made within the statutory six months. It was intimated that the Wheat Commission exceeded its powers in making a bye-law to the effect that every dispute whether a substance was or was not flour should be determined by an arbitration to which the Arbitration Act should not apply.

In *B*— v. *B*— (*The Times*, 23rd July), it was held in a case in which the husband petitioned for the dissolution of his marriage on the ground of his wife's adultery that a cross-plea by the wife in which she relied wholly upon the husband's plea for the exercise of the discretion of the court had been rightly struck out by the registrar. The cross-charge could not, it was held, stand for want of particularity.

In *Rex* v. *Editor, Printers and Publishers of the "Evening News," ex parte Director of Public Prosecutions* (*The Times*, 30th July) a rule *nisi* calling upon the editor, and the publishers and printers, of the *Evening News* to show cause why they should not be attached for contempt of court contained in matter published in that newspaper relating to GEORGE ANDREW MCMAHON, who was charged with being in possession of a firearm with intent to endanger life contrary to s. 7 of the Firearms Act, 1920, following an incident which occurred as the King was riding down Constitution Hill after having presented colours to the Guards in Hyde Park, was made absolute; and the editor was fined £500, as also were the printers and publishers. MCMAHON is now charged with two offences under s. 2 of the Treason Act, 1842, namely: (1) For that he wilfully presented near to the person of the King a firearm, to wit a revolver, with intent to break the public peace; (2) for that he near the person of the King wilfully produced a firearm, to wit, a revolver, with intent to alarm the King. It was not disputed that the article complained of was a contempt of court in the sense that it was bound to influence the minds of those who read it against the man who was accused of a crime before he could be brought to trial.

A similar decision was reached and similar fines imposed in *Rex* v. *Editor, Printers and Publishers of the "Daily Express," ex parte Director of Public Prosecutions* (*The Times*, 30th July.)

In *Rex* v. *Hutchinson and Others, ex parte McMahon* (*The Times*, 30th July) the court made absolute a rule *nisi* calling on the manager of Hendon Central Cinema Limited, proprietors of the Ambassador Cinema, Hendon Central, Hendon Central Cinema Limited and Gaumont-British Distributors, Limited, to show cause why they should not be attached for contempt of court by reason of the exhibition at the said cinema of a portion of a news-reel and poster relating to the same person. The news-reel was headed "Attempt on the King's Life" and the poster bore the words "Assassination Attempt." The manager and cinema company were required to pay the costs of the application against them, and Gaumont-British Distributors Limited were fined £50 and ordered to pay costs. It was intimated in the course of the judgment that a film was no more immune from the rules which forbade contempt of court than a newspaper.

Hire-Purchase Agreements and Distress for Rent.

(*Concluded.*)

In the last article upon this topic we were dealing with certain difficulties which sometimes arise in deciding whether a landlord can retain goods distrained upon on the ground that they are still comprised in a hire-purchase agreement, even though the agreement may have been terminated before the distraint, and there was left for further consideration the difficulty with regard to "reputed ownership," with which I propose to deal shortly to-day.

It will be remembered that the Law of Distress Amendment Act, 1908, protects the goods of third persons from distress in certain circumstances, but that s. 4 (1) of the Act excludes certain goods from that protection. The section reads as follows:—

"This Act shall not apply—

to goods belonging to the husband or wife of the tenant whose rent is in arrear, nor to goods comprised in any bill of sale, hire-purchase agreement or settlement made by such tenant, nor to goods in the possession, order or disposition of such tenant by the consent and permission of the true owner under such circumstances that such tenant is the reputed owner thereof . . ."

The test as to what constitutes reputed ownership is the same as the test for reputed ownership in bankruptcy. Lord Selborne, in *Ex parte Watkins*, L.R. 8 Ch. 520, said "the court must judge from the situation of the goods what inference as to ownership might be legitimately drawn by those who knew the facts. I do not mean the facts which are known only to the parties dealing with the goods, but such facts as are capable of being, and naturally would be, the subject of general knowledge to those who took means to inform themselves on the subject. So on the other hand, in order to exclude the doctrine of reputed ownership . . . it is quite enough, in my judgment, if the situation of the goods was such as to exclude all legitimate ground from which those who knew anything about the situation could infer the ownership to be in the person having actual possession." These observations were expressly approved in *Colonial Bank* v. *Whinney*, 11 A.C. 426, and they seem to indicate that unless it is shown by the true owner that the landlord could have no legitimate reason for thinking that the goods which were on the premises belonged to the tenant, he will lose his goods in the event of a distress being levied. Even in these days when hire-purchase is so widespread, particularly with regard to certain articles, it would be a matter of difficulty to show affirmatively that the landlord could not legitimately have thought that the tenant was the owner, and it is probable that the words referred to above should not be construed quite so strongly as it appears against the owner, but that when the passage is read as a whole the test is whether, in the light of prevailing custom, the landlord is put upon any enquiry. The existence and extent of the prevailing custom will not be judicially noticed, but is a matter to be proved either by evidence or by decided cases covering a similar point (*In re Tabor, ex parte Cork* [1920] 1 K.B. 808), and it might therefore be possible to convince the court, on the facts of any particular case, that the custom of having on hire-purchase, e.g., table linen in night clubs, or refrigerators in homes of very moderate rentals, is so widespread that a person distraining is at least put upon enquiry. In such circumstances a landlord could not rely on a reputation of ownership.

The owner of the goods is not, however, on very safe ground if he relies solely on the point just mentioned. For there are *dicta* in the cases about reputed ownership which are virtually impossible to reconcile and it is difficult to foretell exactly what impression the knowledge of changed conditions would make upon the court. To take one example out of many, the learned judge in *In re Tabor, ex parte Cork, supra*, cited with approval the following words of Jessel, M.R., in *In re Fowler, ex parte Brooks*, 23 Ch. D. 261, where he said: "It is suggested that the habits of English society have become so changed by furniture dealers occasionally letting out furniture on a three years' hiring agreement, that the public at large no longer attribute the ownership of furniture to the person who is in possession of it. That proposition strikes me as extravagant." The times are changing rapidly and the proposition is certainly not so wildly extravagant as it was. There are now many articles in common use which are so frequently bought on the hire-purchase system in certain classes of society that no member of the public should, or indeed would, rashly assume that a tenant is the owner just because the article is in his possession.

Several methods have been adopted by which the owner of the article which is let out on hire-purchase seeks to protect himself from the effects of the doctrine of reputed ownership. The two most obvious ways are either to give written notice to the landlord that the tenant has entered into a hire-purchase agreement with the owner in relation to the goods in question, or to affix a prominent notice to the goods stating that they are the property of the owner.

The second method is frequently adopted with regard to gas cookers, and with articles of this kind the customer apparently does not mind. But with most things the customer would mind very much either if a letter were written to his landlord or if it were openly advertised by a notice displayed on the goods that he had not bought them outright. These methods are, therefore, looked on with disfavour from the commercial point of view. But a better method exists.

It will be remembered that the "reputed ownership" clause of s. 4 of the Law of Distress Amendment Act, 1908, makes it necessary for a landlord to show not only that the goods are in the possession, order or disposition of the tenant under such circumstances that the tenant is the reputed owner, but also that the true owner consents to such possession under such circumstances. Before the hire-purchase agreement is terminated by notice the owner is, of course, hit in any case by what may be called the "hire-purchase" part of s. 4, but what he has to guard against is "reputed ownership" within the meaning of the limits referred to *after* such termination. He should, therefore, make it a clause of the hire-purchase agreement that the hirer is liable to return the goods immediately the agreement is terminated, instead of writing to say (as the owner usually does) that his representative will call in a few days' time. The hirer will almost certainly take no notice of any such clause, but the effect is that the goods remain thereafter in the hirer's possession against, and not with, the owner's consent. The owner can then collect the goods at his leisure, but should be careful not to send any letter stating that his men will call later, as such a letter would entirely negative the clause in the hire-purchase agreement and would, of course, indicate that the owner consented to the hirer retaining possession of the goods until a named date.

Company Law and Practice.

Arrears of Dividend.—II.

Last week I was discussing the meaning of the phrase "arrears of dividend," and I then pointed out that except in a very special context it could have no application to a non-cumulative dividend and that what (for the purpose at least of these articles) we are concerned with is unpaid dividend on cumulative preference shares. I had begun to consider the payment of arrears of dividend in a winding up, and I mentioned some of the cases in which, there being no express provision in the memorandum or articles for the payment of arrears of dividend in a winding up, the rights of the preference shareholders in this respect depended entirely

upon the proper construction of all the provisions of the memorandum and articles, or, it may be, the resolution creating the preference shares. I want now to mention quite briefly one or two of the cases in which there has been an *express* provision that arrears of preferential dividend should be repaid in the liquidation of the company.

The first of these is *In re W. J. Hall & Co. Limited* [1909] 1 Ch. 521. There the articles provided that in the event of the company being wound up the surplus divisible assets remaining after satisfying the company's liabilities should be applied first in repaying the preference capital, and secondly in paying the arrears of the preferential dividends to the commencement of the winding up. The question of the rights of the preference shareholders arose when the company went into liquidation. In the first place it was argued on behalf of the ordinary shareholders that the preference shareholders were not entitled to arrears at all, inasmuch as their right to dividends depended on a declaration of dividend, and since no dividends had been declared there could not be any "arrears of dividend," and reliance was placed upon the decision in *In re Crichton's Oil Company* [1902] 2 Ch. 86—one of the cases I mentioned last week. Swinfen Eady, J., held, however, that upon the construction of the relevant article the arrears of dividend to which the preferential shareholders were expressed to have a prior claim were not limited to dividends declared while the company was a going concern. The question then had to be decided, whether the arrears of dividend to which the preferential shareholders were entitled were payable out of the whole of the surplus assets, whether those assets represented capital or accumulated profits, or only out of that part of such assets which represented accumulated profits; the learned judge held that as the articles provided that dividends were only payable out of net profits, the preference shareholders were only entitled to have their arrears of dividend paid so far as accumulated profits were available.

The decision of Swinfen Eady, J., on the first point—namely, the right of preference shareholders irrespective of any declaration of dividend to be paid arrears of dividend in the winding up when the articles provide for such payment—was followed by Neville, J., in *In re New Chinese Antimony Company Limited* [1916] 2 Ch. 115, and by Lawrence, J., in *In re Springbok Agricultural Estates Limited* [1920] 1 Ch. 563. In both these cases the provision for the application of surplus assets in a winding up to the payment of arrears of dividend after repayment of preference capital was contained in the resolution creating the preference shares, but this, of course, made no difference to the question. Both judges, however, disagreed with the view of Swinfen Eady, J., on the second point which he had to decide—the view, that is, that the amount of the arrears of preference dividends was limited to the amount of profits actually earned and out of which a dividend could have been declared and paid. Lawrence, J., described "arrears of dividend" in the relevant clause of the resolution as meaning "any deficiency in the dividend . . . which . . . the preference shareholders would have been entitled to receive out of the profits of the company while it was a going concern had there been sufficient profits to admit of a declaration and payment of the dividend in full." And he held that there were arrears of dividends payable out of the surplus assets in the winding up although there never were any profits out of which the dividends could have been paid.

On the point, then, whether arrears of dividend payable in a winding up are in the absence of express provision payable irrespective of the existence of assets representing profits, there is a conflict of authority; but the difficulty is one which is usually overcome by the insertion of express provisions. This I shall mention in a moment, but before doing so, there is another case to which I want to refer, viz., *In re Roberts & Cooper Limited* [1929] 2 Ch. 383. There the memorandum of association provided that in a winding up the preference shareholders should be entitled to receive in full out of the assets, the capital paid up on their shares and all arrears of dividend *due* at the date of winding up. No dividends were declared in respect of the preference shares for four years and the company went into liquidation. Eve, J., held that no dividends having been declared, none had become "due," and therefore there were no arrears "due" to the preference shareholders at the date of the winding up; the case was distinguishable from the three cases I have just mentioned (in all of which it will be remembered it was held that the preference shareholders' right to arrears did not depend on any declaration of dividend) by the presence of the word "due."

If we look back for a moment at the cases I have referred to in these articles, we shall see that there have been two main grounds on which the claim of preference shareholders to arrears of dividend in a winding up has been rejected; first in those cases where there has been no *express* reference to payment of arrears of dividend and the rights have depended on the construction of the relevant provisions, on the ground that the preference shares only conferred a right to dividend if declared, and therefore that the absence of such a declaration was fatal to the claim to arrears of dividend (and compare *In re Roberts & Cooper Limited*); and secondly, in the case where there has been an express right to arrears of dividend, but it has been held that the right is limited to that amount of the surplus assets which represents accumulated profits (*In re W. J. Hall & Co. Limited*). So that (and this is the practical lesson of the cases) in framing the provisions for the payment of arrears of dividend in a winding up, it is desirable to express exactly the extent of the right in these two respects; and commonly and conveniently the questions whether the right to arrears is dependent on a previous declaration of dividend and whether the right is or is not limited to those surplus assets which represent accumulated profits, are anticipated by giving the preference shareholders the right in a winding up to arrears of their dividend "whether earned or declared or not."

There are other questions with regard to arrears of dividend which from time to time arise and some of these might be conveniently referred to here. Suppose a cumulative dividend is in arrear over a number of years, and profits are then made which enable arrears to be partly paid off. How are those profits to be applied as between unpaid shareholders who have held their shares for some years and unpaid shareholders who acquired their shares recently? The answer to this question was given by Tomlin, J., in *First Garden City Limited* v. *Bonham Carter* [1928] 1 Ch. 53; he held that the available profits should be distributed between the shareholders rateably in proportion to their several claims; so that if a share had six years' arrears and another share three years' arrears, the available sum will be distributed between the two in the proportion of two to one. He rejected the contention that the proper course was to go back and begin at the far end and make up the dividends of the earliest year and each subsequent year in succession so far as the profits available allowed. It must be remembered, however, that this matter is also one which depends upon the construction of the relevant provisions, and different provisions might well lead to different results.

Questions also arise as to the respective rights to arrears of dividend of persons having different interests in property comprising the preference shares in respect of which the arrears of dividend have arisen; as for example between tenant for life and remainderman. In *In re Sale* [1913] 2 Ch. 697, cumulative preference shares had been bequeathed in trust for a life tenant and remainderman and no dividend was declared or paid during the lifetime of the tenant for life; the question arose whether the life tenant's executors had any claim on the preference shares in respect of possible future dividends which might become available to satisfy these

arrears. Astbury, J., held that they had not, because the preference shares conferred only a right to a preferential dividend as and when the directors of the company chose to declare it, and no dividend was declared during the life tenancy period. Similarly, in *In re Wakley* [1920] 2 Ch. 205, where a testator bequeathed cumulative preference shares to R and settled the residue of his estate on his children; dividends on the shares were in arrear at the date of the testator's death in 1905, but in 1907 a dividend was declared sufficient in amount to satisfy all arrears on the preference shares. The question was whether that dividend belonged to R or to the residuary legatees. The Court of Appeal held that R was entitled, inasmuch as the right to a cumulative dividend confers not the right to a dividend in each year of the fixed amount, but the right in a year when profits are made and a dividend declared to have for that year not only the fixed amount of dividend for that year, but that sum plus the amount of the dividend not received in previous years. Warrington, L.J., speaking of the nature of a right to cumulative dividend, said: "It is, in my opinion, nothing more than a right to participate in profits available for dividend which in accordance with its regulations the company has from time to time determined to distribute. In fact, the shareholder has no right to a dividend, whether cumulative or otherwise, until there are profits available, and the company by the proper authority has determined to distribute them. It follows that when profits are available and the company determines to distribute them, it is the shareholder who is then entitled to the shares who takes the dividend, and not the person entitled to them in past years, though the dividend may in the case of cumulative dividend be large enough to cover the amount which would have been paid in past years if there had been profits available, but which was not paid because there were no such profits." So that in working out the rights of persons entitled at different dates to cumulative preference shares, a dividend when paid (even though it comprises arrears) is to be regarded as paid not in respect of any previous period of non-payment, but of the current year or other financial period.

Finally, there is the recent decision of Farwell, J., in *In re MacIver's Settlement* [1936] 1 Ch. 198; there as a result of a scheme of arrangement preference shareholders had waived their arrears of dividend in return for ordinary shares in the company. It was held that as between tenant for life and remainderman entitled under a settlement of the preference shares, the ordinary shares so received must be treated as income and not capital, and belonged to the tenant for life as the person who would have been entitled to the arrears of preference dividend if they had been paid in cash.

A Conveyancer's Diary.

[Contributed.]

A Plea for Rational Death Duties.

In a recent article (80 Sol. J. 378), the writer expressed certain opinions about the effect of death duties and traders' settlements upon the countryside. In the present article he proposes to consider the future of death duties in general; he wishes, however, to make it clear that what is now said applies to personalty and urban land, but not to rural land. Special considerations seem to apply to the latter into which there is not space to enter.

The present estate, succession and legacy duties present a chaotic jungle of legislation scattered through a dozen or more Acts. Many important provisions are referential, and as such are calculated to give the greatest possible difficulty in construction. To illustrate this point we have but to refer to s. 2 (1) (*c*) of the Finance Act, 1894, which charges with estate duty certain interests by reference to an earlier enactment, as amended by an intermediate Act, as further amended by s. 2 (1) (*c*) itself. The moment when the Commission on Income Tax has presented its report and a draft codifying bill is peculiarly suitable for consideration of this no less tangled problem.

The death duties would appear to have two objects, namely:—

(1) To raise revenue—£89,000,000 in 1936/7;

(2) To re-distribute the national wealth by taking some of their surplus from the rich at death and using it towards the national expenditure, including those social services which benefit the poor; or to use the elegant American phrase, to "soak the rich."

These objects are not really matters of controversy at all; they are accepted in principle by all the political parties. The controversy on both points only goes to matters of degree; it turns upon fiscal considerations and conflicts of political thought with which the lawyer has no concern. But on the whole he may accept the two principles stated above, and it is his duty to work out his ideas within them.

Granted these objects, the primary essential is that the present muddle shall be brought to an end. We require a single Act to achieve the objects, drafted as simply as is consistent with the subject matter, and containing no gratuitous unfairness of incidence. Such an Act would contain the principles and machinery of charge, and leave the actual scales to be scheduled to the annual Finance Act.

In considering this project, the first problem to be solved is a rather obvious one. Is there any reason why there should be three sorts of death duty? Doubtless there are plenty of historical *explanations* for this fact, but no *reason* why it should continue to subsist even suggests itself. Let us state, then, our first conclusion: estate duty, legacy duty and succession duty should be abolished, and their place taken by a single inheritance duty, just as the multifarious modes of succession upon intestacy were replaced by a single code of rules in the Administration of Estates Act, 1925.

Next, it will be necessary to decide between the two principles of charge at present operating. The estate duty charges the aggregated value of the property "passing" on the death. The legacy and succession duties charge the benefit taken by the legatee or successor. Which is the inheritance duty to follow? Again the answer is almost self-evident. It is by no means unreasonable to charge the benefits taken; the beneficiary is, after all, getting something for nothing. But surely the charge should be measured by that something, and not by circumstances which may be wholly irrelevant? This last is what happens on the estate duty principle. Let us state the plainest and crudest example. The deceased had £1,000,000 free estate; he also was life tenant of a fund of £10,000. He left his free estate to his son; under the terms of the settlement the £10,000 went over to his nephew. But for estate duty purposes they were aggregated, and the unfortunate nephew found himself saddled with the 40 per cent. duty. Granted that the deceased and his son are fit objects for "soaking," on what principle of reason or natural justice can it be demanded that the nephew shall be treated on exactly the same footing as they? If to be rich is a crime, he has but one-hundredth part of their guilt. "But" answered the legislature in the Finance Act, 1894, "he must be 'soaked' for having a rich uncle; such is and shall be the law of England." Perhaps it would be a little difficult to justify this proposition. Our second principle, then, must be that the inheritance duty should follow the present legacy and succession duties and charge the benefit taken.

Having got thus far, are we also to say that there ought to be three scales of charge varying with the relationship or lack of it between the testator and legatee or predecessor and successor? That is the rule of the present legacy and succession duties. Should it be retained? This, really,

is not a question for the lawyer, but one of political philosophy. Broadly speaking the Right would say, "Yes"; the Left would say, "No," because all inheritance is a gratuitous benefit, and a lineal descendant has no right to any milder treatment than anyone else. From our point of view it does not really matter very much; it will hardly affect the drafting whether there be one scale or three. However, until there is a clear political direction upon the point, we must, without prejudice, adhere to the *status quo*, and provide for three scales.

Our next problem is what form those scales ought to take. At present all three duties provide for a *flat* rate. That is to say, one arrives finally at the sum to be charged, and upon the whole of that sum the duty is charged at so much per cent. Herein the death duties are to be sharply distinguished from the sur-tax, which proceeds upon a graduated scale. Our submission is that the principle of the sur-tax ought to be applied to the new inheritance duty. Assuming that it is right to "soak" the rich, surely it is just to charge more on the top end of an estate than on the bottom? Moreover, where there is a flat charge, one is precluded, unless one is frankly going to confiscate the entirety, from charging anything like a duty of 100 per cent. With a graduated scale it would be possible to decide on social and political grounds how much it is desirable to allow any one man to inherit and the scale could be graduated accordingly, taxing the surplus over the desirable figure at 100 per cent. Moreover, by following the sur-tax principle of charging so much on the first £500, so much on the next £500, and so on, one could do away with the tiresome rules for adjustment in "marginal" cases, where, in estate duty, the total to be charged is just above one of the points at which the duty increases. The actual scales will, of course, be governed by two considerations, namely:—

(1) Fiscal; what percentages will raise the sums needed, and

(2) Political; what is the largest amount that one person should be allowed to inherit?

With these the lawyer has nothing to do.

Finally, we may perhaps be permitted to step for a moment outside the lawyer's strict sphere to enquire whether it is really necessary that the inheritance duty should always be paid in cash. Duties, of course, are designed primarily to raise revenue, that is, cash. Moreover, the sales of stock to raise the cash assist the revenue from stamp duties and increase the taxable profits of stockbrokers. But it is just worth considering whether the system might not usefully be altered. All political parties appear nowadays to accept an ever-increasing state control of activities of all kinds, though they differ in regard to speed and degree. Suppose, however, that inheritance duty was paid in specie. The Crown would gradually and painlessly acquire a commanding interest in the stock of every commercial company; similarly, it would acquire most urban land (it will be remembered that we have excluded rural land from consideration in the present article). Might not this policy be a possible solution for the present political controversy about nationalisation and control? Of course cash revenue would be lost; but the Crown would be acquiring valuable assets against which it could properly borrow without adding to the dead-weight of the National Debt or abandoning the canons of sound finance.

What has been said above does not purport to be more than a rough sketch. But it will have served its purpose if it arouses some interest among lawyers in the subject. It is fairly clear that the death duties merit the consideration of an expert commission quite as much as did the income tax. But it is respectfully urged that if such a Commission is set up it should not be limited, as was that on income tax, by a direction to preserve all the main features of the existing law. What is required is not a codifying Act like the Sale of Goods Act, an Act merely stating in clear language the existing state of affairs. The death duties require the same treatment as did the law of property, that is to say, first drastic amendment, and then consolidation. We have endeavoured to show that that can be done so as to produce a clear set of intelligible rules, superseding all the existing rules, eliminating unnecessary complexity and unfairness, but preserving the underlying purposes of the existing duties. Death duties are not like Customs or Excise. To express views upon either of the latter would be undue presumption in a lawyer; but he encounters the death duties every day. To this extent they are on a par with the law of property; that has been rendered infinitely less troublesome by measures agitated for and largely framed by lawyers. Ought not the same to be done for the death duties?

Landlord and Tenant Notebook.

Agreement to extend Underlease if Mesne Lease extended.

In practice it is not uncommon for a tenant who no longer requires his premises to try to sub-let for the rest of his term, and to find that parties who would otherwise be interested want more than he can give. By way of compromise, an underlease is sometimes made containing a covenant by the underlessor to grant a renewal if he himself can obtain an extension from the head lessor; occasionally he also covenants to use his best endeavours to obtain such extension. These provisions would appear to contain the germs of litigation, but as far as I am able to ascertain the reported cases are not only few but are confined to one type of case. All arose in Ireland, and were decided in the first half of the last century.

The first was *Evans* v. *Walshe* (1805), 2 Sch. & Lef. 519. The defendant was tenant of the governing body of a charity, who were, the report states, "in the habit of" renewing his lease. The underleases he granted to the plaintiff contained covenants by him to renew. The defendant was also a member of the governing body of whom he held, and one day it occurred to them that they might be guilty of breach of trust in letting to him at the particular figure. So they let the premises by auction; at which the defendant was the highest bidder. He tried to pass the increase on to the plaintiff, on the ground that he would never have entered into the covenant if he had known what was going to happen. However, the court reminded him that he need not have renewed the lease and gave judgment restraining him from ejecting the plaintiff.

In *Revell* v. *Hussey* (1813), 2 Ball & B. 280, the defendant's covenant obliged him to grant an extension whenever he was granted one. He had apparently forgotten that his own lease was about to expire, and he found that he had to pay a substantial fine for a renewal. He tried to resist the plaintiff's claim for specific performance on equitable grounds, but the Lord Chancellor held that there were limits beyond which equity would not go in interfering with freedom of contract.

The result was the same in *Lawder* v. *Blachford* (1815), Beat. 522, novel features being that the plaintiff was a sub-undertenant originally, the defendant having become mesne tenant by paying a fine which his ex-landlord declined to pay, and that the covenant bound him to use his best endeavour to obtain a renewal. In entering into this undertaking he had reckoned on his own landlord being willing and able to renew.

After that the subject was given a rest for a bit, but one more attempt was made by a mesne lessor to obtain a contribution in excess of what had been bargained for in *Thomas* v. *Burne* (1838), 1 Dr. & W. 657, and he too was told that as he had been under no compulsion to renew he must carry out his agreement with the plaintiff.

In the result, what guidance we have as to the extent of the obligation imposed, even by a covenant to use best endeavours, is extremely scanty.

There is another and very different point which is of interest in connection with these covenants, namely, the question of their running with the land. If *Muller* v. *Trafford* [1900] 1 Ch. 54, be good law, it seems that they cannot. The validity of this decision on that particular point has, however, been questioned.

The facts were that a lease from M to R ran for eighty years from Michaelmas, 1822; out of it was carved an underlease from R to A from 1840 for the rest of the term, less ten days; and out of that a sub-underlease from A to F for the rest of the term of the underlease, less ten days. In the last-mentioned document A covenanted that if he should obtain from M, his executors or assigns, any extension of the term for which the said A held . . . then and in that case he or his executors and assigns should and would within three calendar months . . . grant F a new lease of what was unexpired of the present term plus the further term, less ten days. There were various assignments of the various interests; the plaintiff acquired the sub-underlease in 1892, the defendant the underlease in 1897. It will have been observed that the covenant spoke of the undertenant getting an extension of his term not from his immediate landlord, but from the freeholder; a curious provision, but of no importance for present purposes, for the defendant did in fact in 1899 surrender his interest to the freeholder and was in fact granted another fifty years. He then refused to grant the plaintiff corresponding extension.

Farwell, J., actually decided the case on the ground that the covenant was not a covenant to renew, but his judgment went on to examine the question what would be the position if it were. The result is interesting.

The rule by which assignees of the reversion are bound by assignors' covenants which touch and concern the thing demised is, unlike the rule as to the benefit of such covenants, purely of statutory origin. The essential words of the enactment then in force, 38 H. VIII, c. 34, s. 2, were that the lessee should have like action against any person who should have any grant of the reversion. The reasoning of the judgment can be put in this way: Of what reversion? Of the reversion to the term created by the instrument containing the covenant. But that reversion has gone; the defendant surrendered to the superior landlord, accepted a new grant subject to the underlease, and has a different reversion accordingly.

One cannot help feeling that there must be a fallacy in reasoning which would enable any mesne landlord who was an assignee of the original grantor (who might have died or disappeared), to evade a rule of law by surrendering the mesne lease and accepting another on possibly the same terms and for the same term.

If one examines the position from the undertenant's point of view, one can reason thus: his tenancy must have a reversion; if his landlord surrenders his (the mesne) term, the underlease is not destroyed, neither is the reversion; the reversioner is now the head lessor. As the head lessor cannot grant a lease which is not subject to the undertenancy, it would seem that a grant to the same mesne tenant must re-transfer that reversion and its incidental obligations.

"Graunties of Reversions," which was the title of the Statute 32 H. VIII, c. 34, has been replaced by L.P.A., 1925, s. 142 (1), which expresses the rule by saying that the obligation . . . shall go with the reversionary estate immediately expectant on the term granted by the lease. It seems to me that even if during the currency of an underlease the head term be extended, whatever reversionary estate there may be has attached to it that obligation.

William Bennett, solicitor, of Savile-place, W., and Marryat-road, Wimbledon, left £24,969, with net personalty £19,174.

Our County Court Letter.

LESSORS' BREACH OF CONTRACT.

In *Archer* v. *Midland Clay Products Limited*, recently heard at Atherstone County Court, the claim was for £15 as damages for breach of contract. The plaintiff's case was that the defendants had agreed in writing, on the 8th April, to let to her certain premises, for use as a confectionery and sweet shop, at a rental of 7s. 6d. a week for three years. The opening date was to have been the 4th May, but, on the 30th April, the defendants wrote that the contractor, who had agreed to carry out the necessary alterations, had been prevented by circumstances from doing the work. The plaintiff had therefore incurred a loss of £5 on the realisation of her stock, bought in anticipation of opening, and she had also lost £5 as the contribution to the family fund from the wages of her daughter, who had left a situation in order to help in the proposed shop. The loss of profits were estimated at £5. The defence was that the plaintiff admittedly knew that the defendants were only prepared to spend £20 on the alterations, and this was a condition of the contract. Owing to the contractor's inability to do the work, another estimate was obtained, but the amount was £28 12s. 6d. The plaintiff was given the opportunity of paying the excess, by way of rent in advance, but had declined the offer. As the £20 condition could not be fulfilled, this constituted impossibility of performance, and the defendants were not liable under the "Coronation cases," e.g., *Krell* v. *Henry* [1903] 2 K.B. 740. His Honour Judge Drucquer observed that landlords often mentioned the amount they were prepared to spend, but this was not a stipulation binding the tenant. The alleged condition, with regard to £20 as the maximum cost, was not mentioned in the above contract, and there was nothing to render its performance impossible. The proper procedure would have been for the defendants to have done the work, and to have sued the original contractor for the excess cost. Judgment was therefore given for the plaintiff, but for £10 10s. only and costs, as the item of damage relating to the loss of the daughter's wages was too remote. In view of the fact that the defendants had broken a three-year agreement, however, the plaintiff would have been justified in claiming a larger amount, e.g., £20, for loss of profits.

THE LOADING OF FINNISH TIMBER.

In the recent case of *Arild Steamship Co.* v. *Christopher Brown Ltd.*, at West Hartlepool County Court, the claim was for £120 as demurrage. The plaintiffs, a Swedish company, were the owners of the s.s. "Mercia," which had arrived at Kasko, Finland, on the 29th July, 1934, for the purpose of loading sawn wood. Although a berth was available, loading did not start until the 2nd August, and was not completed until the 11th August, whereas it would only have taken until the 4th August if it had commenced without delay. The defendants were shippers and agents for the Kasko Wood Company, and their case was that, if the vessel was detained, it was due to the absence of an available berth, and to circumstances beyond their control. The cargo was delivered loaded, according to the custom of the port and the terms of the charter-party, and all reasonable assistance was given. His Honour Judge Richardson held that there was a berth available at the stone quay when the "Mercia" arrived, but, owing to the circumstances and difficulties of the port, it was not possible for the shippers to use it. Kasko was a small port, unable to cope with all the traffic in a busy timber season, but that was not the fault of the shippers, who had to make the best use of the facilities at hand. It was not reasonable to expect a small and primitive port to load cargoes as quickly or as smoothly as large and up-to-date ports, with modern equipment. There was no evidence of negligence or unreasonable conduct by the shippers, and judgment was given for the defendants, with costs.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Effect of an Assent to Two Post-1925 "As Tenants in Common in Equal Shares"—L.P.A., 1925, s. 34 (2).

Q. 3353. I have received instructions to extract letters of administration of the estate of C, a lady who died last year intestate. I was informed that C and her sister D (who is still living) were "joint owners" of Blackacre, this property having been derived from their father A. The title deeds have just come into my hands, and it appears from an assent among them made by B, sole executor of A, who died in April, 1934, that Blackacre was devised by A to his two daughters C and D, as tenants in common, by his will dated 7th August, 1915. In this assent, dated 10th August, 1934, B purports to assent to the vesting of Blackacre in C and D in fee simple as "tenants in common in equal shares." It seems to me that any attempt to vest or convey to tenants in common after 1925 must at least be nugatory, and that the proper course for B to have followed would have been to appoint an additional trustee and for them both to have held Blackacre on the statutory trusts. In the present case, however, it is thought that perhaps harm may have been done, as subsequent to the assent Blackacre (enfranchised copyhold) was subject to a compensation agreement wherein C and D are described as the purchasers and "the estate owners in respect of the fee simple." This agreement as well as the assent have been enrolled by the steward of the manor. Will you please let me have your views, and advice, how to put matters right. I may add that the proposed administrators of C's estate are her two sons.

A. The assent was not without effect. An assent is a "conveyance" (L.P.A., 1925, s. 205 (1) (ii)), and accordingly the assent of 1934 operated "as if the land had been expressed to be conveyed to the grantees (C and D) as joint tenants upon the statutory trusts" (L.P.A., 1925, s. 34 (2)). This rendered C and D the estate owners in respect of the fee simple. While it is true that, strictly speaking, B should have given effect to L.P.A., 1925, s. 34 (3), yet as C and D were absolutely entitled in equity there was no real impropriety in B vesting the property in them as joint tenants upon the statutory trusts (the trusts of the proceeds, etc., being in fact for them as tenants in common). There passes under the intestacy of C her equitable half-share in the property. No harm seems to have been done and no action is indicated. In due course, no doubt, an additional trustee of the statutory trusts will be needed.

Stamp Duty on Agreement for Sale of Business.

Q. 3354. On the sale of the goodwill of a business, the usual practice appears to be to stamp the agreement *ad valorem*, whether the transaction is followed by a deed of assignment or not. Section 59 (4) of the Stamp Act seems to imply that such an agreement, although stamped with an agreement stamp only, can be specifically enforced. If this is so, would the purchaser of the business be sufficiently protected as regards enforcing the vendor's agreement not to complete if no subsequent assignment is taken?

A. We do not think the question has ever come before the High Court in any reported case, but we think the Inland Revenue authorities construe the proviso (and properly construe) as strictly limited to the two classes of actions—specific performance and damages. Whether "damages for the breach thereof" even covers an action for damages of an incidental undertaking of the vendor subsequently to the completed sale is doubtful. What seems quite clear is that the contract would not be properly stamped to be used in evidence in an action for an injunction, and as this is the usual and in many cases the only practicable remedy, the answer to the query is that the purchaser would not be sufficiently protected unless he is prepared to pay the penalty for non-stamping before he commences any action.

Defective Road Surface.

Q. 3355. Our client is the owner of a house in a residential park. The larger portion of the park is at present occupied with dwelling-houses. It has always been the practice of the land owners, in conveying plots for building purposes, never to convey any portion of the road on which the plots of land abut, and to insert wide covenants providing for the construction and maintenance of roads by abutting owners until taken over by the local authority. All the roads in the park are private roads, and where each road abuts on the highway there are, or have been, gates. None of the roads are taken over by the local authority. One of the two of the roads is in a bad state of repair, and our client, whilst driving down one of these roads from his house in the direction of the main road, damaged his car in a large pot-hole in the middle of the road. We shall be obliged if you will let us have your opinion as to whether our client has any remedy for the damage suffered, against either the landowners or the owners of the land abutting on the road.

A. As the motorist also owned a house in the park he was an invitee, and therefore he has a stronger case than the plaintiff in *Coleshill* v. *Manchester Corporation* [1928] 1 K.B. 776, where the defendants were successful in the case of an accident in a private road. On the other hand, the motorist knew the state of the road, and therefore has less chance of success than the plaintiff in *Oldham* v. *Sheffield Corporation* (1927), 136 L.T. 681—also a private road case. In the present case the difficulty is a possible defence of contributory negligence, i.e., excessive speed of the car. There is also the question whether complaints had been made to the landowner about the state of the road. If so, the motorist has a reasonable chance of success against them for damages for negligence. It will then be for the landowners to bring in, as third parties, the owner of the land abutting on the road. The latter cannot be sued direct.

Mortgage by Joint Tenants.

Q. 3356. Leasehold property was, in 1925, assigned to a husband and wife as joint tenants for the remainder of the term granted by the head lease. In 1933 the husband and wife, as beneficial owners, demised the property to a building society by way of mortgage. The point has now arisen whether the husband and wife had power to mortgage at all in view of the fact that they were statutory trustees and, if so, whether the mortgage to the building society as beneficial owners was in order.

A. Joint tenants who are in fact beneficial owners of the proceeds of sale can properly mortgage as a single individual and are always required to do so as beneficial owners, these words not affecting the demise but only the covenants implied.

To-day and Yesterday.

LEGAL CALENDAR.

27 JULY.—On the 27th July, 1859, two young labourers, Henry Carey and William Picket, were convicted at the Lincoln Assizes of the murder of an elderly man. Here is a contemporary comment: "Hot with drink, two ruffians stagger out of an alehouse in pursuit of an old man who had been drinking in their company. They pull stakes out of a hedge and when they come up to him knock him down. The stakes break, they pluck others and beat him to death." Having robbed him, they fell asleep, were caught next day, accused each other and were condemned. Stolidly insensible, "they derived just so much from the religious exhortations of the chaplain as to become convinced that they were now going to Heaven."

28 JULY.—On the 28th July, 1727, Lord Harcourt, formerly Chancellor, died at his house in Cavendish-square in his sixty-seventh year.

29 JULY.—On the 29th July, 1836, Henry Roper, a labourer of sixty-five, was tried at Leicester for the murder of a woman thirty-three years earlier. Elizabeth Tibbutt, the sister of the village draper of Kegworth, was thirty-six years old when her body was found one winter's morning in 1802 beside a lonely path. Her death remained a mystery and no suspicion rested on the prisoner till he fell ill in 1836 and made a confession that he had criminally assaulted the woman and left her to die. He was tried before Park, J., but the jury found he had spoken under the influence of delusions and acquitted him.

30 JULY.—Bad feeling had existed for some time between Sergeant Robinson and Corporal Neven of the 56th Regiment of Foot, and the inferior N.C.O. cherished a grudge against his superior. The mutual dislike came to a tragic conclusion when they were both doing duty as guard on the convict ship "Runnymede," in Plymouth Sound, for one day the corporal shot the sergeant dead. He was tried for murder at Bodmin before Mr. Baron Martin on the 30th July, 1856. In Coleridge he had a future Chief Justice to defend him but the plea of accident failing, he was convicted.

31 JULY.—For the sake of a shilling, George Bailey committed murder and was condemned to death. His victim was a poor woman, the widow of an itinerant musician, who made her living by singing in public-houses. The night of her death she had collected a few coppers at the "Dog and Partridge," at Stoke-upon-Trent. After the place had closed, the prisoner had fallen in with her and demanded her money, finally robbing and drowning her. He was tried at Stafford and found guilty on the 31st July, 1832.

1 AUGUST.—Lord Chief Justice Anderson died on the 1st August, 1605, after a judicial career of twenty-three years. His abiding monument in law libraries is the volume of reports which bears his name, but in his day he had the reputation of a great judge. His independence may be judged from one of his reported utterances in reply to counsel who was arguing that there was no precedent for a certain course. "What of that?" said the Chief Justice. "Shall we not give judgment because it is not adjudged in the bookes before? Wee will give judgment according to reason and if there bee no reason in the bookes I will not regard them."

2 AUGUST.—On the 2nd August, 1860, George Cass, a farm labourer, was tried at Carlisle for the murder of a woman employed at the same farm. They had constantly quarrelled, and one day she had been found dead with her throat cut. He alleged that she had thrown a knife at him in the course of an altercation, that he had thrown it back and that it had stuck in her throat. After that, he said, she asked him to finish her off and he gave her two more gashes that dispatched her. He was convicted and hanged.

THE WEEK'S PERSONALITY.

Lord Harcourt held the Great Seal during the last four years of the reign of Queen Anne, first as Lord Keeper and then as Lord Chancellor. Though on her death he had to take part in the formal proceedings necessary for proclaiming the Hanoverian king, his sympathies were with the Stuarts, and immediately on the arrival of King George in England he was relieved of his office. After some years, when the succession to the throne was definitely established, he joined the Whig party under Walpole, earning from his old allies the nickname of "the Trimmer." His end came suddenly in 1727. As he was travelling in his coach to visit Walpole at Chelsea, on Sunday, the 23rd July, he had a stroke and was carried to his house in Cavendish-square, where he died on the Friday. Though a respectable lawyer, he did not stand quite in the front rank.

Pope indeed, wrote:—

"Harcourt I see for eloquence renown'd
The mouth of justice oracle of law."

But that was poetic exuberance. In his late years, he was thus described: "He is a fair, lusty, man; has been handsome; he has so much learning and eloquence and so sweet a delivery that he may not improperly be styled a second Cicero."

SNAKES IN COURT.

A good deal of alarm was caused during the great rattlesnake murder trial at Los Angeles, when one of the reptiles being used for demonstration purposes escaped in court. Lawyers and witnesses leapt on their chairs, but fortunately it was recaptured before any damage was done. I believe the only time that such unpleasant exhibits have been loose in an English court was once at Marlborough Street Police Court many years ago. A lady naturalist had been summoned by her next-door neighbour for letting snakes escape from her premises. Everyone in court grew pale when the defendant produced a tangle of snakes and let them wriggle about her neck and shoulders to show how tame they were. The magistrate, however, was not sufficiently reassured to refrain from ordering her to prevent her pets from straying from home in future. Apart from the present Los Angeles case, the Americans seem to specialise in sensational exhibits. At Providence, in Rhode Island, 200 pedigree cats were once taken to court to puzzle an expert witness.

THE LOST LEADER.

At the last annual general meeting of The Law Society, there was mentioned the problem of counsel who are briefed in a case, but prove unable to conduct it owing to pressure of work in another court. It was suggested that either the case should be postponed or the solicitor should be allowed to step into the place of the too popular leader. The problem is an old one, probably much older than Gilbert's model counsel who early resolved that:—

"My learned profession I'll never disgrace
By taking a fee with a grin on my face,
When I haven't been there to attend to the case."

Sometimes, of course, there may be collateral reasons for non-attendance which do not occur to one at first thought. One recalls the tale of the eminent counsel who, being unable to attend to a case, got another man to devil it. Meeting him later, he asked how he got on. "Got on!" was the reply. "Why the bill of exchange is impounded, the witnesses are ordered not to leave the court, and instructions are to be sent to The Law Society to move to strike the solicitor off the rolls. In my hurry to get out of court, I lost my watch, but I had pluck enough to tell the judge before I left that it was not my brief but yours."

Notes of Cases.

Court of Appeal.

Tibbals *v.* Port of London Authority.

Slesser and Romer, L.JJ., and Eve, J.
16th and 17th June, 1936.

Superannuation—Pension Calculated on Wages—"Additions" Not to be Reckoned—War Bonus—Whether Wages or "Additions."

Appeal from a decision of Crossman, J.

In 1903, an agreement was entered into between the Surrey Commercial Dock Co. and several of their employees (of whom the plaintiff was one) setting out the terms of a superannuation scheme working upon a system of contributions by deductions from wages. It was provided that for the purpose of computing the superannuation allowance the salary or wages should "be deemed to be at the rate of the actual salary or wages paid to him at the time of his superannuation or retirement, exclusive of any gratuities, allowances for house or other additions." When the Port of London Authority took over the company's undertaking under the Port of London Act, 1908, it was provided by s. 60 (1) that officers of the company were to hold office on the same terms, including all conditions regarding superannuation allowance, as they would have held had there been no transference. During the Great War, from 1915 onwards, the plaintiff received in addition to his wages certain bonus payments which rose from 3s. a week to 22s. 6d. a week in 1918, when 15s. of this sum was consolidated with the wages and 7s. 6d. remained bonus. No deductions were ever made from 1915 onwards from the bonus in respect of pensions, and in 1919, in a document left with the plaintiff, there was stated under the heading "War Bonus: 15s. per week added to wage counting for pension, plus 11s. 6d. per week floating war bonus." The court held that the plaintiff accepted that position. The sums payable continued to fluctuate and in 1925 the wages were £3 8s. 6d. a week and the bonus 12s., at which amounts they stood in 1928, when the plaintiff retired. Crossman, J., held that the bonus was not part of the wages for the purpose of calculating pension.

Slesser, L.J., dismissing the plaintiff's appeal, said that though it was argued in the court below that the effect of the Act of 1908 was to impose a statutory obligation to pay the pensions and that the case fell within *Salford Union* v. *Dewhurst* [1926] A.C. 619, that point was abandoned in the Court of Appeal. As to the word "bonus," it might be used in different contracts of service in different senses, meaning in some cases no more than a gratuity and in others part of the consideration of service. In this case it was "variable from time to time as might be decided by the Authority," being granted owing to the economic conditions produced by the war, and it being contemplated by both parties that on the termination of those conditions the ordinary wage only should continue. The bonus was fortuitous and fluctuating. The first question was whether the terms of the agreement of 1903 excluded the bonus from wages. His lordship considered that they did not. "Wages" included bonus (*Sutton* v. *Attorney-General*, 39 T.L.R. 294, at p. 297; *Railway Clearing House* v. *Dines*, 42 T.L.R. 683; and *James* v. *Tees Conservancy Commissioners*, unreported, see [1935] Ch., at p. 546). It had been argued that the words "exclusive of any gratuities, allowances for house or other additions" excluded this bonus. A gratuity might be so connected with the wage as to be deemed an emolument, or might be a mere tip, so that what was excluded might or might not be something which would otherwise be part of the wage. As to "allowances for house," the problem might arise whether it was to be deemed part of the wage and it was here said that it should not. It had been argued that other "additions" covered the bonus. But the fact that it was variable and temporary was not decisive. The test was: What was the actual yearly wage paid? Here the bonus was part of the wages. The words "other additions" were probably meant to cover such additions as allowances for coal (which were received by persons affected by the contract) and allowances for special extra services peculiar to the individual, such as overtime. Had there been nothing further, the pension should have been calculated on the basis that the bonus was part of the wages, but the workman had agreed to take bonus only on the basis that he should not claim pension upon it. His lordship, having considered the evidence for this conclusion, said that the appeal failed.

Romer, L.J., agreed that the appeal should be dismissed, but considered that the bonus was one of the "other additions" within the exclusion.

Eve, J., agreed with Slesser, L.J. on both points.

Counsel: *Gover*, K.C., and *H. Garland*; *Simonds*, K.C., *Morton*, K.C., and *J. Stamp*.

Solicitors: *Pattinson & Brewer*; *Solicitor to the Port of London Authority*.

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

In re J. & P. Coats Limited Application.

Lord Wright, M.R., Slesser and Romer, L.JJ.
24th, 25th and 26th June, 1936.

Trade Marks—Registration—"Sheen"—Nature of Word—Applied to Machine Twist—Registrar Consulting Merchandise Marks Committee after Hearing—Authority.

Appeal from a decision of Luxmoore, J.

The company manufactured mercerised threads used in sewing machines, "machine twist." They sought to register the trade mark "sheen" which they had used since 1912, during which time they had sold over 162,000,000 reels. There was evidence that in the public mind the word indicated the goods dealt in by the company, distinguishing them from any other sewing cotton, that no other trade mark in use upon sewing cotton included the word "sheen," and that the word was not in common use in the trade as a descriptive term, the gloss on mercerised thread being described as "lustre." The Registrar, after the hearing before him, and before giving his decision, consulted through the Keeper of Cotton Marks, with the Trade and Merchandise Marks Committee appointed by the Manchester Chamber of Commerce propounding the question whether there were any special facts or circumstances connected with the textile trade which would cause the mark to be unsuitable for distinguishing the goods of one firm from similar goods of another firm. An affirmative answer was given. Neither the question nor the answer was communicated to the applicants, but they were set out in the Registrar's report refusing to register the mark. Luxmoore, J., reversed the decision of the Registrar. The Board of Trade appealed.

Lord Wright, M.R., dismissing the appeal, said that the question asked by the Registrar was not limited to the particular matter of machine twist which was the only matter in connection with which it was sought to register the mark, and, further, the question was precisely that which the Registrar had to decide. The course was undesirable, and there was nothing in s. 64 of the Trade Marks Act, 1905, which enabled the Registrar to take the course he did. On the question whether this mark should be registered, it had been argued that the word fell into such a category that from its very nature registration should be refused. His lordship did not accept that view and referred to *In re J. Crossfield & Sons Ltd.* [1910] 1 Ch. 130, at pp. 145 *et seq.* The word "sheen" was not a merely laudatory word like "perfection," "best," "classic," "universal" or "artistic" (see *W. N. Sharpe Ltd.* v. *Solomon Brothers Ltd.*, 84, L.J. Ch. 290). In *In re H. N. Brock & Co. Ltd.* [1910] 1 Ch. 130, there was an attempt to monopolise the natural description of woollen goods. In

the present case "lustre" was habitually used in the trade to signify glossiness. The word "sheen" was something special. It was not merely a colour description, but a peculiar use of a word rather poetic and obsolete, not customary in this particular connection. Registration would not be likely to embarrass an honest trader in the exercise of his right to use an ordinary word to describe something he was dealing in, nor in the use of the word "sheen" if he wanted to use it as a *bonâ fide* description of the character or quality of his goods. *In re Liverpool Electric Cable Co. Ltd Applications*, 46 R.P.C. 99, and *Trade Marks Registrar* v. *W. & G. Du Cros* [1913] A.C. 624, were different cases from this. Here the distinctiveness in fact was as wide and as long continued as could be expected.

SLESSER and ROMER, L.JJ., agreed.

COUNSEL: *The Attorney-General* (Sir Donald Somervell, K.C.), and *L. Heald; Trevor Watson*, K.C., and *Burrell*.

SOLICITORS: *Solicitor to the Board of Trade; Grundy, Kershaw, Samson & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Smith's Will Trusts; Smith *v.* Melville.

Farwell, J. 7th and 8th July, 1936.

TRUST—COMPANY—DIVIDENDS IN ARREAR—SCHEME OF ARRANGEMENT—TRUSTEES HOLDING PREFERENCE AND ORDINARY SHARES—ORDINARY SHARES RECEIVED IN LIEU OF ARREARS OF DIVIDEND ON PREFERENCE SHARES—CAPITAL OR INCOME.

The trustees of a settled fund bequeathed under the will of a testator, who died in 1906, held both preference and ordinary shares in a certain company. Prior to March, 1934, no dividend had been paid on the preference shares for seven years. A scheme was formulated whereby each of the ordinary shares of £1 was divided into three shares of 6s. 8d. One-third of the resulting shares were retained by the ordinary shareholders who contributed the remaining two-thirds. These were forfeited by the company and distributed among the preference shareholders in consideration of their consenting to the cancellation of the arrears of dividends on their shares. In April, 1935, pursuant to the scheme, the trustees gave up a certain number of ordinary shares of 6s. 8d. each and were allotted a number proportionate to their holding of preference shares. The question arose whether the shares so received were capital or income.

FARWELL, J., in giving judgment, said that in *In re MacIver's Settlement* [1936] 1 Ch. 199, the fact that the form the payment took was not cash but shares did not affect the fact that what the trustees received was income. It had been said that because the trustees held, in the present case, both ordinary and preference shares that decision did not apply, since the shares which had now come into the hands of the trustees, being contributed by the ordinary shareholders, had been to some extent contributed by persons interested in capital. It should, however, be remembered that this was not a scheme put forward by the trustees or any beneficiaries. The scheme had been accepted by a majority of the shareholders and approved by the court. These shares could not be treated as representing partly income and partly capital. *Prima facie*, they were part of the income. In *re MacIver's Settlement* (*supra*) could not be distinguished. These shares were the price paid for giving up the right to the arrears. The court could not order a beneficiary legally entitled to property to give it up because if he did not injustice might be done to other persons interested in the trust. The scheme had been most beneficial to the ordinary shareholders. These shares represented income.

COUNSEL: *J. L. Stone; Morton*, K.C., and *R. Goff; Wilfrid Hunt; Gover*, K.C., and *J. B. Lindon; Crauford; Archer*, K.C., and *L. W. Byrne*.

SOLICITORS: *Emmet & Co.*, agents for *Sanders, Locker & Parish*, Birmingham; *Ridsdale & Son*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Carnarvon Harbour Acts, 1793 to 1903; Thomas *v.* Attorney-General.

Farwell, J. 15th July, 1936.

CONSTITUTIONAL LAW—PRIVATE ACT OF PARLIAMENT—INTERPRETATION—SUMMONS AGAINST ATTORNEY-GENERAL TO OBTAIN DECLARATION—NO INFRINGEMENT ALLEGED—WHETHER COURT WILL ENTERTAIN PROCEEDINGS—R.S.C. Ord. LIV A, r. 1A.

The plaintiff, the clerk of the Trustees of the Carnarvon Harbour Board, took out a summons under R.S.C. Ord. 54A, r. 1A, to determine whether under the Settled Land Act, 1925, and certain relative provisions in their private Acts of Parliament, the powers given by the Settled Land Act, in so far as they were wider than the powers given by the private Acts, might be exercised, and whether to that extent the provisions of the private Acts might be treated as extended. The Attorney-General, who was made a defendant, took the point that the court should not entertain the application at all, as this was not a case where the trustees had exercised some power and some person who thought himself aggrieved was seeking relief, nor where the Attorney-General himself was taking proceedings to obtain an order restraining them from doing certain things which he alleged to be a breach of duty.

FARWELL, J., in giving judgment, said that the power of the court to give declaratory judgments was purely discretionary (see *Dyson* v. *Attorney-General* [1911] 1 K.B. 410). The question was whether the plaintiff could require the court to determine what was the extent of their powers, those powers not having been exercised and no one being aggrieved by any exercise of them—to make a declaration enabling them to know in the future what were their powers. In the case of charities, the position of the Attorney-General was peculiar; and that case did not touch the present point. If the plaintiff were entitled to the relief sought, the effect would be to fetter the discretion the Attorney-General had to take proceedings or not in the event of the trustees exceeding their powers. No case exactly covered the present point. The nearest was *Dyson* v. *Attorney-General* [1911] 1 K.B., at pp. 421, 422, but that did not lay down that the trustees of a public undertaking, faced with a question of construction of their Act of Parliament, might come to the court making the Attorney-General a party, and demand a decision on the question in doubt. The court should not make a declaration which would fetter the Attorney-General's discretion. The summons must be dismissed.

COUNSEL: *Montgomery*, K.C., and *Beebee; The Attorney-General* (Sir Donald Somervell, K.C.), and *Andrewes Uthwatt* (*Brunyate* with them).

SOLICITORS: *Hatchett Jones & Co.*, agents for *Trevor Roberts & Simons*, of Carnarvon; *Treasury Solicitor*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Bendir and Others *v.* Anson.

Farwell, J. 21st July, 1936.

PRACTICE—ANCIENT LIGHTS—ACTION FOR INTERFERENCE BY BUILDING—SEVERAL PLAINTIFFS—WHETHER ENTITLED TO JOIN IN ONE ACTION—R.S.C., Ord. XVI, r. 1.

The defendant erected a building in Old Burlington-street. Two of the plaintiffs were the owners or occupiers of No. 6, and the other two were the owners or occupiers of No. 4. These houses did not adjoin. The plaintiffs alleged that the new building obstructed ancient lights to the enjoyment of which they were entitled and brought an action in respect of the interference, claiming that the issues between themselves

and the defendant should be disposed of together. The defendant contended that the plaintiffs in respect of No. 4 had different causes of action from those in respect of No. 6 and that the issues were separate and should be tried separately. Accordingly he took out a summons asking that the proceedings should be set aside and that the plaintiffs elect which set of them proceed. He also contended that the claim was embarrassing.

FARWELL, J., in giving judgment, said that the question turned on the construction of R.S.C., Ord. 16, r. 1. It was whether there was here a transaction or series of transactions the same *vis-à-vis* the four plaintiffs. His lordship referred to the case of *Stroud* v. *Lawson* [1898] 2 Q.B. 44, at p. 50, and said that it really left the question open as to what was meant by a transaction. The plaintiff said that the transaction was the erection of the building, but the defendant was right in contending that this was not so. The erection of the same building in such a way as to constitute a nuisance was different *vis-à-vis* the first two plaintiffs and the second two plaintiffs. Different considerations might arise in each case, and the defendant might be embarrassed. This action was not brought in respect of the building of a house simply, but in respect of the building of a house in such a way as to cause nuisance to the plaintiffs. The plaintiffs were not entitled to proceed in one action. Either the writ must be set aside or two of the plaintiffs must elect to proceed, the other two being struck out.

COUNSEL: *Thomas Cunliffe*, for the defendant; *Andrew Clarke*, for the plaintiffs.

SOLICITORS: *Nicholson, Freeland & Shepherd; Steadman, Van Praagh & Gaylor.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

De Jetley Marks *v.* Greenwood and Others.

Porter, J. 16th March, 1936.

WRONGFUL DISMISSAL—ALLEGED CONSPIRACY TO INDUCE BREACH OF CONTRACT — MOTIVE — MEANS — WHETHER BREACH A PART OF THE CAUSE OF ACTION.

The plaintiff was in July, 1934, appointed managing director to a certain company at a salary of £1,200 a year, payable monthly, with commission. The defendants were directors of the company. By January, 1935, the company had failed to make any profits, and an investigation into its affairs was initiated by resolution passed in that month at a meeting of directors. It was also decided that the plaintiff, whose health was poor at the time, should be temporarily suspended from his duties. The defendants believed that the company was in a critical position and that the plaintiff was to blame. The plaintiff accepted his monthly salary on the 1st February, 1935. His salary in respect of March was withheld by the company against a claim by them against him for £629, and in April the plaintiff issued a writ for non-payment of his salary for March. On the 4th March, the company's solicitor had written to the plaintiff informing him that he had not been dismissed, but merely relieved of his duties pending the investigation into the company's affairs. The report of the investigation was submitted to each of the company's directors on the 27th March, but no copy was sent to the plaintiff, who, however, received one through a servant of the company. On the 23rd April, he wrote to the secretary of the company asking whether he had been dismissed or not. The secretary replied that he had no instructions from the board. On the 25th April, the plaintiff issued the writ in the present action against his four co-directors, the defendants, claiming damages against them for wrongfully conspiring to procure a breach of his contract with the company. On the 21st May, the plaintiff resigned his managing directorship.

PORTER, J., said that two of the defendant directors, at any rate, did not intend to have the plaintiff dismissed or his contract terminated, unless, after due enquiry, they thought they were legally entitled to do so. In his (his lordship's) opinion, the plaintiff was never dismissed. It had been suggested for the plaintiff that his suspension from his duties was in itself a dismissal, since it deprived him of the opportunity of earning commission, and that the long delay in deciding his fate, together with the non-payment of his March salary, was such a breach as he could accept as a dismissal. But here the company had expressly informed the plaintiff in March, 1935, that he was not dismissed. It was true that to induce, or to conspire to induce, a third party to put an end to a contract without lawful excuse was an actionable wrong: *Lumley* v. *Gye* (1853), 2 E. & B. 216; *Quinn* v. *Leathem* [1901] A.C. 495. But not every breach put an end to a contract. It must be such a breach as went to the root of a contract or showed an intention in the party sued not to be bound by it: *Freeth* v. *Burr* (1874), L.R. 9 C.P. 208; *Mersey Steel & Iron Co.* v. *Naylor, Benzon & Co.* (1884), 9 App. Cas. 434. Here the company never showed any intention not to be bound by their contract with the plaintiff; neither did their breach, if it were one, in suspending the plaintiff from his duties, amount to a repudiation. The plaintiff had further contended that the cause of action was the conspiracy, and that, even though the breach occurred after the writ was issued, the plaintiff had a good cause of action provided that the breach was induced by the defendants. He (his lordship) did not agree with that. He thought that the breach was an integral part of the cause of action and that it must take place before the issue of the writ. It had been argued for the defendants, in case he (his lordship) should have come to the conclusion that there had been a wrongful dismissal, that the servants or agents of a company could never be guilty of conspiracy to dismiss one of the company's servants, and counsel had cited *Said* v. *Butt* [1920] 3 K.B. 497, and *Scammell and Nephew Ltd.* v. *Hurley* [1929] 1 K.B. 419, in support of that contention. There was force in the argument. It was, in his (his lordship's) opinion, true that directors in a board meeting could not induce or conspire to induce that meeting to break a contract—at any rate, not without malice. He thought, however, that some, at any rate, if not all, of the directors could conspire, before the board meeting was held, to induce the board as a whole wrongfully to break a contract by dismissing one of the company's servants. The matter, however, was a difficult one, and he expressed no final opinion upon it. It had been argued for the plaintiff that, even if he had not been dismissed, he still had a cause of action against the defendants on the principles set forth in *Quinn* v. *Leathem*, *supra*, and *Pratt* v. *British Medical Association* [1919] 1 K.B. 244. The action only lay where illegal means were used. It was not enough that the motive of acts done was bad. It was also true that acts done in the *bonâ fide* protection of the defendants' interests, if not themselves illegal, were not actionable (*Ware & de Freville Ltd.* v. *Motor Trade Association* [1921] 3 K.B. 40; *Sorrell* v. *Smith* [1925] A.C. 700.) Where the defendants' object was to injure the plaintiff, and illegal means were used for it, the plaintiff could sue for damage to him. Illegal means appeared to include coercion, threats, intimidation and fraud. He (his lordship) had found what he regarded as the use of illegal means on the part of two of the defendants, O. F. and O. W. Rowntree. He had also found that their object was only partly to injure the plaintiff, being partly also to protect their own interests. What might result where the motive was thus dual was a question which Lord Sumner in *Sorrell* v. *Smith*, *supra*, found himself unable to answer and which in the present case it was unnecessary to determine. Damage was the gist of the plaintiff's action, and under no head had the actions of the defendants Rowntree caused him any damage. There must be judgment for the defendants.

COUNSEL: *Pritt*, K.C., *F. Hallis* and *J. E. S. Ricardo*, for the plaintiff; *Norman Birkitt*, K.C., and *F. W. Wallace*, for the defendants.

SOLICITORS: *Theodore Bell, Cotton & Curtis; Morris, Ward-Jones, Kennett & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

McGowan *v.* **Osgoldcross Assessment Committee.**

Lord Hewart, C.J., du Parcq and Goddard, JJ.
29th April, 1936.

RATING AND VALUATION—PREMISES CONSISTING OF PRINTING WORKS AND SHOP FOR RECEIVING ORDERS—WHETHER AN INDUSTRIAL HEREDITAMENT—RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 Geo. 5, c. 44), s. 3.

Case stated by the Recorder of Pontefract Quarter Sessions.

The respondent was the occupier of a hereditament consisting of a printer's works and shop. The shop was not a large part of the business. Some orders for the printing business were handed across the counter. The whole of the printing on the premises was work in fulfilment, and not in expectation, of orders. A newspaper was also printed on the premises by the respondent. The hereditament having been rated as an industrial hereditament, the appellant assessment committee rated it as a general hereditament. The respondent objected, contending that the premises were an industrial hereditament. The appellants contended that they were not such a hereditament within the meaning of s. 3 of the Rating and Valuation (Apportionment) Act, 1928. On appeal to Quarter Sessions, it was held that the hereditament was industrial.

LORD HEWART, C.J., said that it was in his opinion immaterial that there was attached to part of the premises a small shop where some business of a shop was done. There was no case which approached contradicting the conclusion to which the recorder had come. *Finn* v. *Kerslake* [1931] A.C. 457, *Turpin* v. *Middlesbrough Assessment Committee and Bailey* [1931] A.C. 451, *Wilkinson* v. *Sibley and Another* [1932] 1 K.B. 194, and *Toogood & Sons Ltd* v. *Green* [1932] A.C. 663, were decisions with reference to particular facts, and illustrated the importance in all cases of looking at the particular facts. In his (his lordship's) opinion, the recorder's conclusion was right, and the appeal must be dismissed.

DU PARCQ, J., said that in s. 3 of the Act of 1928 the expression "industrial hereditament" in his opinion meant a hereditament occupied and used as a factory. Then came a proviso that the expression did not include a hereditament used as a factory if it were primarily occupied for the purposes, *inter alia*, of a retail shop. No one using words in their everyday meaning (see the judgment of Lord Dunedin in *Turpin's Case* [1931] A.C., at p. 473) would say that a place where a person could go and order the printing of circulars, magazines, etc., to his specification, was a retail shop. The hereditament was used as a factory, and primarily for the purpose of carrying out work in accordance with orders given by members of the public. It was true that, when the work was completed, something took place which amounted in law to a sale, but that did not make a retail shop out of a printing works. Nobody would say that he was going to the respondent's shop to buy a thousand circulars, when he was in fact going to call at the printing works to order the printing of a thousand circulars. He (his lordship) agreed that the appeal should be dismissed.

GODDARD, J., agreed.

COUNSEL: *Pritt*, K.C., and *C. L. Henderson*, for the appellants; *Comyns Carr*, K.C., and *J. Scott Henderson*, for the respondents.

SOLICITORS: *Pritchard, Sons, Partington & Holland*, agents for *Hartley & Worstenholme*, Castleford; *Blundell, Baker & Co.*, agents for *Carter, Bentley & Gundill*, Pontefract.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

R. *v.* **Salford Assessment Committee.**

Lord Hewart, C.J., du Parcq and Goddard, JJ.
6th May, 1936.

RATING—PROPOSAL TO AMEND VALUATION LIST—OPPOSED BY RATING AUTHORITY—EMPLOYEE IN TOWN CLERK'S DEPARTMENT APPOINTED AS CLERK TO ASSESSMENT COMMITTEE—VALUATION LIST SIGNED BY TOWN CLERK AS CLERK TO RATING AUTHORITY—VALIDITY OF APPOINTMENT—BIAS—RATING AND VALUATION ACT, 1925 (15 & 16 Geo. 5, c. 90), s. 55 (1); Sch. I, r. 12; Sch. IV, Pt. III, r. 4—LOCAL GOVERNMENT ACT, 1929 (19 & 20 Geo. 5, c. 17), s. 15 (1).

Rule *nisi* calling on the Salford Assessment Committee to show cause why a writ of prohibition should not issue to prevent them from acting on a resolution whereby they appointed as their acting clerk one, W. Brown, an officer employed in the town clerk's department of the Salford Union (the rating authority), as chief committee's clerk and elections officer. The grounds for the rule were: (1) that the resolution was *ultra vires* and contrary to Sch. I, r. 12 and Sch. IV, Pt. III, r. 4 of the Rating and Valuation Act, 1925; (2) that Brown was so related to the Salford rating authority as to be unfit to occupy the position of acting clerk to the assessment committee; (3) that it might reasonably be expected that Brown had a real bias, and that justice would not appear to be done if he acted as clerk to the committee. The Salford rating authority was the party appearing in opposition to the applicant, Ogden, on a proposal by him to amend the valuation list. When Ogden, the owner of a cinema in Salford, made his proposal, the rating authority gave notice of objection. The valuation list was signed by the town clerk as clerk to the rating authority. By Sch. 12, r. 1 of the Act of 1925 "No person who is a member of any committee to which the duties of the rating authority with respect to the preparation of a valuation list are delegated shall be qualified for appointment as a member of the assessment committee . . ."

LORD HEWART, C.J., said that the rule must be discharged. Although there were certain specific statutory prohibitions naming persons who, in effect, could not be appointed to the position in question, persons occupying Brown's position were not named. Had it been intended to exclude such persons, a very small number of words would have accomplished that purpose. In his (his lordship's) opinion, Brown was not excluded by the Act of 1925. It had been said, further, that his appointment might reasonably create a suspicion of bias, and that the well-known maxim, that justice must not only be done but must manifestly appear to be done, applied. But when one looked at the scheme of this legislation, the very wide powers given to the assessment committee, and the peculiarity of its composition, it could not be thought that the fact that Brown was employed in the town clerk's department could, in the mind of any reasonable man, give rise to a real suspicion. Two-thirds of the assessment committee were themselves members of the rating authority, and it seemed to him (his lordship), somewhat idle to speak of a suspicion of bias because Brown's services were added to those of two-thirds of the members of the body itself. By s. 55 (1) of the Act of 1925, Parliament had given the assessment committee a very wide discretion in the appointment of officers. In view of the powers given to the committee, he (his lordship) could not think that it would be right to make the rule absolute. Had this matter arisen in London, the town clerk himself not only might but must be the officer performing duties of this kind.

COUNSEL: *Erskine Simes*, showed cause; *Michael Rowe*, in support.

SOLICITORS: *Gregory, Rowcliffe & Co.*, agents for *Brett and Co.*, Manchester; *Peacock & Goddard*, agents for *Percy H. Barker & Co.*, Manchester.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Merstham Manor Ltd. *v.* **Coulsdon and Purley U.D.C.**

Hilbery, J.

4th, 5th, 6th February; 7th, 8th April; 22nd May, 1936.

HIGHWAY—PUBLIC RIGHT OF WAY—DEDICATION OF ROAD AS—USER—"ACTUALLY ENJOYED BY THE PUBLIC AS OF RIGHT AND WITHOUT INTERRUPTION"—INTERPRETATION—RIGHTS OF WAY ACT, 1932 (22 & 23 Geo. 5, c. 45), s. 1 (1).

Action for trespass.

The plaintiff company were the owners of an estate in the district for which the defendant council were the highway authority. Across the estate ran a road opening at each end on to a public highway. The plaintiffs, claiming that the road was their property, placed a gate across one end of it and a fence across the other. The defendants, holding that the road was a public highway, removed the obstructions, and asserted that as highway authority they were entitled to do so in the course of protecting public rights within their district. The plaintiffs brought this action in respect of the removal of the obstructions. *Cur. adv. vult.*

HILBERY, J., having reviewed the evidence, said that it established that the road had been subject to user by the public, for twenty, indeed forty, years. He was satisfied that there was not sufficient evidence of an intention not to dedicate. On the contrary, he thought that there had been a long course of conduct by the plaintiffs consistent only with an intention to dedicate. The consideration of the question whether the evidence given with regard to user established a case for the defendants under the Rights of Way Act, 1932, required that he should first decide what that Act required to be established by evidence. By s. 1 (1), where a way like that in dispute "has been . . . actually enjoyed by the public as of right and without interruption for a full period of twenty years, such way shall be deemed to have been dedicated as a highway unless . . ." Those words reproduced the language used in the Prescription Act, 1832, but had not been the subject of judicial interpretation in their context in the Act of 1932. The words "actually enjoyed," in his opinion, meant that he who asserted the right must establish as a matter of fact, on the one hand the actual enjoyment of the right by the public as of right, and on the other hand the actual suffering of the exercise of that right by the landowner for the full period of twenty years (*Hollins* v. *Verney* (1884), 13 Q.B.D. 304, and the judgment of Lindley, L.J., at p. 308). The words "as of right" were a definition of the quality of the acts which must be proved, and not of the acts themselves. In his (his lordship's) opinion, their meaning was that the actual enjoyment must be by acts done openly, not secretly, not by force and not by permission given from time to time (see "Coke on Littleton," 19th ed., p. 114 (*a*), and *Earl de la Warr* v. *Miles* (1881), 17 Ch. D. 535, at p. 596). With regard to the words, "without interruption," it was in his (his lordship's) opinion, to the interruption of the enjoyment of the way, and not to the period of time, that the words were attached by way of qualification. Parke, B., had expressed a similar view with regard to the words as used in the Prescription Act, 1832, in *Flight* v. *Thomas* (1840), 11 Ad. & El. 688, at p. 699. With regard to whether the "interruption" from which the user must, by the Act of 1932, be free was physical and actual interruption of the enjoyment or an act merely challenging the right to user, while allowing the user to go on, in his (his lordship's) opinion, the Act contemplated an actual interruption. Many bodies, such as the four Inns of Court, over and through whose property ran roads used by the public, took the precaution to close, and actually to stop the public enjoyment of, those roads for at least one day in every year. Considered in the light of that interpretation of the Rights of Way Act, 1932, the evidence, in his opinion, showed that the defendants had established their case under the Act, and there must accordingly be judgment in their favour.

COUNSEL: *W. Marshall Freeman* and *A. W. Nicholls*, for the plaintiffs; *S. G. Turner*, K.C., and *C. E. W. Simes*, for the defendants.

SOLICITORS: *Westbury Preston and Stavridi*, agents for *Grece and Pringle*, Redhill; *Lees and Co.*, agents for *E. C. King*, Purley.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Horn *v.* **Minister of Health.**

Swift, J. 9th July, 1936.

HOUSING—COMPULSORY PURCHASE ORDER—OBJECTION—ENQUIRY—DEPUTATION OF OFFICIALS OF LOCAL AUTHORITY—VISIT TO MINISTER—DISCUSSION OF HOUSING POLICY IN GENERAL—OWNER OF LAND NOT PRESENT—SUBSEQUENT CONFIRMATION OF ORDER BY MINISTER—VALIDITY—DUTY OF MINISTER TO ACT JUDICIALLY—HOUSING ACT, 1925 (15 & 16 Geo. 5, c. 14), s. 64, Sched. III, para. 2.

Appeal under the Housing Acts.

On the 14th August, 1935, the Sunderland Corporation made an order under s. 64 of the Housing Act, 1925, for the compulsory purchase of 102 acres of land belonging to the applicant, Horn. The applicant having given notice of objection to the order, a public local inquiry was held on the 5th December. On the 12th December, a deputation consisting of the mayor, town clerk and other officials of the Sunderland Corporation visited the Minister of Health for the purpose of discussing their general policy under the Housing Acts. The town clerk had made an affidavit stating that the order was not discussed at that meeting. The applicant was not present at the meeting. In January, 1936, the Minister confirmed the order. The applicant contended that it was a breach by the Minister of his duty as a quasi-judicial officer to discuss any housing matter with representatives of the corporation while the order relating to his 102 acres of land was *sub judice*, and he asked that the order be quashed.

SWIFT, J., said that, in the conduct of the public local inquiry, it had been necessary to place before the inspector not only the particulars of the 102 acres belonging to the applicant, but also figures and statistics of the population of Sunderland and the general situation there relating to housing. That situation was therefore one of the material matters at the inquiry. Although it had been stated that the applicant's land was not discussed when the deputation visited the Minister, the applicant said that he did know that the building of houses was discussed, and that directly after the order was confirmed the corporation passed a resolution for the building of 800 houses on his land, and he was therefore very suspicious that something had been said about his land. He (his lordship) was of opinion that, however inconvenient it might be, the Minister must as the result of *Errington* v. *Minister of Health* [1935] 1 K.B. 249, act in a judicial manner, and must not receive any information from one side without giving the other side an opportunity of dealing with it. It was not necessary to supply the principle laid down in *R.* v. *Sussex Justices* [1924] 1 K.B. 256. There was no distinction between a case where the Minister, through his agents, went to the town, as was done in *Errington's Case* (*supra*), and one where the town, through its deputation, went to the Minister, as in this case. But if it had been necessary to invoke the principle in *R.* v. *Sussex Justices*, *supra*, he thought that any reasonable man in the applicant's position would, on hearing of the deputation which had waited on the Minister, naturally have thought that they had gone to see him about the matter of his land, as indeed they had in the sense that they went to discuss a question of which this land formed a large part. There was no ground for saying that anyone concerned in the matter had acted in bad faith, and indeed that had not been alleged. But there was an irregularity going to the root of the matter. It was one of the difficulties caused by a system of administration under which the Minister of Health was

partly an administrator and partly a judge, that persons approached him as if he were acting in one capacity when in fact he was acting in the other. The confirmation of the order was bad and the order must therefore be quashed.

COUNSEL: *H. A. Hill* and *D. P. Kerrigan*, for the applicant; *The Solicitor-General* (Sir Terence O'Connor, K.C.) and *Valentine Holmes*, for the Minister of Health.

SOLICITORS: *Maples, Teesdale & Co.*, agents for *Steel, Maitland & Byers*, Sunderland; *Solicitor to the Ministry of Health.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

[For Table of Cases previously reported in current volume see page iii of Advertisements.]

Obituary.

SIR FRANK GAVAN DUFFY.

The Right Hon. Sir Frank Gavan Duffy, Chief Justice of the High Court of the Commonwealth of Australia from 1931 until October, 1935, died at Melbourne on Wednesday, 29th July, at the age of eighty-four. He was born in Dublin and was educated at Stonyhurst and at the University of Melbourne. He was called to the Victorian Bar in 1874 and took silk in 1901. In 1913 he was appointed to the High Court, and he became Chief Justice in 1931. He was created K.C.M.G. in 1929, and in 1932 he was sworn a member of the Privy Council.

MR. I. H. STRANGER, K.C.

Mr. Innes Harold Stranger, K.C., Recorder of Sunderland, died at Sunderland Sessions Court on Tuesday, 28th July, at the age of fifty-seven. Mr. Stranger was called to the Bar by the Middle Temple in 1909, afterwards becoming a member of the Inner Temple, and took silk in 1933. He was a member of the North-Eastern Circuit. From 1923 to 1924 he was Liberal Member of Parliament for Newbury. He was appointed Recorder of Sunderland at the beginning of this year.

DR. J. C. C. GATLEY.

Dr. John Clement Carpenter Gatley, D.C.L., LL.D., Barrister-at-Law, of Hare-court, Temple, died at his chambers on Thursday, 23rd July, at the age of fifty-five. Educated at Westminster and Exeter College, Oxford, he was called to the Bar by the Inner Temple in 1904 and joined the South-Eastern Circuit. Dr. Gatley, who will be best remembered as the author of "Gatley on Libel and Slander," was Assistant Reader in Roman Law, Jurisprudence, International Law and the Conflict of Laws to the Council of Legal Education, and had been an examiner in law to various bodies, including London University.

MR. L. G. BADHAM.

Mr. Lewis George Badham, solicitor, a partner in the firm of Messrs. Brookes & Badham, of Pershore and Tewkesbury, died on Friday, 24th July, at the age of sixty. Mr. Badham, who was educated at Tewkesbury and Cheltenham, served his articles with his father, at Tewkesbury, and was admitted a solicitor in 1898. He was appointed Clerk to the Pershore Magistrates in 1916.

MR. J. MATHERS.

Mr. John Mathers, solicitor, of Bradford, died on Friday, 24th July, at the age of seventy-six. Mr. Mathers was admitted a solicitor in 1885.

MR. W. R. WOOLER.

Mr. William Rymer Wooler, solicitor, of Darlington, died on Friday, 24th July, at the age of eighty-one. Mr. Wooler was admitted a solicitor in 1878.

Parliamentary News.

Progress of Bills.

House of Lords.

Aberdeen Corporation Order Confirmation Bill.
Read Third Time. [29th July.
Aberdeen Corporation (Streets, Buildings, Sewers, etc.) Order Confirmation Bill.
Read Third Time. [29th July.
Air Navigation Bill.
Read Third Time. [28th July.
Bognor Regis Urban District Council Bill.
Commons' Amendments agreed to. [28th July.
Cattle Industry (Emergency Provisions) Bill.
Read Second Time. [29th July.
Crown Lands Bill.
Read Third Time. [29th July.
Education Bill.
Amendment not insisted upon. [28th July.
Hornchurch Urban District Council Bill.
Commons' Amendments agreed to. [28th July.
Ilfracombe Urban District Council Bill.
Commons' Amendments agreed to. [28th July.
Isle of Man (Customs) Bill.
Read Second Time. [29th July.
Land Drainage Provisional Order (No. 1) Bill.
Read Third Time. [29th July.
Land Drainage Provisional Order (No. 2) Bill.
Read Third Time. [29th July.
Liverpool Corporation Bill.
Commons' Amendments agreed to. [28th July.
Manchester Corporation Bill.
Commons' Amendments agreed to. [27th July.
Ministry of Health Provisional Order Confirmation (St. Helens) Bill.
Commons' Amendments agreed to. [28th July.
Ministry of Health Provisional Order (Heathfield and District Water) Bill.
Read Third Time. [28th July.
Ministry of Health Provisional Order (Helston and Porthleven Water) Bill.
Read Third Time. [28th July.
Public Health Bill.
Commons' Amendments agreed to. [29th July.
Sea Fisheries Provisional Order (No. 1) Bill.
Read Third Time. [28th July.
Sea Fisheries Provisional Order (No. 2) Bill.
Read Third Time. [28th July.
Shops (Sunday Trading Restriction) Bill.
Commons' Amendments agreed to. [29th July.
Weights and Measures (Scotland) Bill.
Read Third Time. [29th July.

House of Commons.

Aberdeen Corporation Order Confirmation Bill.
Read Third Time. [24th July.
Aberdeen Corporation (Streets, Buildings, Sewers, etc.) Order Confirmation Bill.
Read Third Time. [24th July.
Air Navigation Bill.
Lords' Amendments considered. [29th July.
Axbridge Rural District Council Bill.
Lords' Amendments agreed to. [24th July.
Birmingham Corporation Bill.
Read Third Time. [29th July.
Bognor Regis Urban District Council Bill.
Read Third Time. [28th July.
Cattle Industry (Emergency Provisions) Bill.
Read Third Time. [24th July.
Cheltenham and Gloucester Joint Water Board, etc., Bill.
Lords' Amendments agreed to. [24th July.
Consolidated Fund (Appropriation) Bill.
Read Second Time. [29th July.
Coventry Corporation Bill.
Lords' Amendments agreed to. [28th July.
Dalton-in-Furness Urban District Council Bill.
Lords' Amendments agreed to. [27th July.
Dover Corporation Bill.
Read Third Time. [24th July.
Education Bill.
Lords' Amendments considered. [22nd July.
Gas Light and Coke Company (No. 2) Bill.
Lords' Amendments agreed to. [24th July.
Hairdressers (Registration) Bill.
Read First Time. [29th July.

Health Resorts and Watering Places Bill.
Lords' Amendments agreed to. [28th July.
Hereford Corporation Bill.
Lords' Amendments agreed to. [27th July.
Hornchurch Urban District Council Bill.
Read Third Time. [27th July.
Housing Bill.
Read Third Time. [27th July.
Ilfracombe Urban District Council Bill.
Read Third Time. [28th July.
Isle of Man (Customs) Bill.
Read Third Time. [27th July.
Liverpool Corporation Bill.
Read Third Time. [28th July.
London and North Eastern Railway (General Powers) Bill.
Lords' Amendments agreed to. [24th July.
London and North Eastern Railway (London Transport) Bill.
Lords' Amendments agreed to. [24th July.
London Passenger Transport Board Bill.
Lords' Amendments agreed to. [24th July.
Manchester Corporation Bill.
Read Third Time. [24th July.
Manchester Ship Canal Bill.
Read Third Time. [29th July.
Maternity Services (Scotland) Bill.
Read First Time. [27th July.
Merton and Morden Urban District Council Bill.
Lords' Amendments agreed to. [27th July.
Ministry of Health Provisional Order Confirmation (Ripon) Bill.
Read Third Time. [29th July.
Ministry of Health Provisional Order Confirmation (St. Helens) Bill.
Read Third Time. [24th July.
Mortlake Crematorium Bill.
Read Third Time. [24th July.
Private Legislation Procedure (Scotland) Bill.
Read Third Time. [29th July.
Public Health Bill.
Read Third Time. [27th July.
Public Health (London) Bill.
Read Third Time. [27th July.
Shops (Sunday Trading Restriction) Bill.
Lords' Amendments considered. [27th July.
Solihull Urban District Council Bill.
Lords' Amendments agreed to. [27th July.
Surrey County Council Bill.
Lords' Amendments agreed to. [24th July.
Thornton Cleveleys Improvement Bill.
Lords' Amendments agreed to. [28th July.
Tithe Bill.
Lords' Amendments considered. [24th July.
Wolverhampton Corporation Bill.
Lords' Amendments agreed to. [27th July.

Questions to Ministers.

CRIMINAL PROCEEDINGS (SHORTHAND NOTES).

Mr. PETHICK-LAWRENCE asked the Lord Advocate whether he will consider the provision of a shorthand note of all evidence in all criminal proceedings, as is at present the case in the High Court?

The LORD ADVOCATE: Shorthand notes of the evidence are taken in all cases tried on indictment whether in the High Court or the Sheriff Court. In 1934, the latest year for which complete figures are available, nearly 103,000 persons were charged before 292 Summary Criminal Courts in Scotland. In a large proportion of these cases the charges were of a trivial character. The cost of providing a shorthand note of all evidence in summary criminal prosecutions would be prohibitive, and in many instances such provision would be impracticable. Further, in view of the very limited rights of appeal available in summary proceedings, verbatim notes of evidence would serve no purpose. I therefore regret that I am unable to adopt the hon. Member's suggestion. [28th July.

HIRE PURCHASE AGREEMENTS.

Mr. THURTLE asked Mr. Attorney-General whether his attention has been called to the inequitable terms from the standpoint of the hirer, of the hire-purchase agreements now commonly in usé; and whether, in view of the widespread adoption of the hire-purchase system by people not familiar with legal agreements and lacking resources to defend themselves against sharp practices, he will consider the possibility of taking steps to restrain, by law, the oppressive character of agreements under this system?

The SOLICITOR-GENERAL (Sir Terence O'Connor): My hon. and learned Friend's attention has been called to the question of hire-purchase agreements. Alterations to the county court rules are being made with a view to preventing the hardships which may arise from a defendant being sued elsewhere than in his own district. With regard to the terms inserted in these agreements, I have no evidence that those in general use are such as would justify interference by the legislature. [28th July.

COURTS OF SUMMARY JURISDICTION.

Sir ARNOLD WILSON asked the Home Secretary whether his attention has been called to recent cases in which persons have been committed to gaol without bail by virtue of warrants issued without proper inquiries at the instance of private individuals; and whether, in view of the growing dissatisfaction with this and other aspects of the performance of these duties by magistrates in courts of summary jurisdiction, he will consider setting up a Departmental Committee to inquire into and make recommendations for the improvement of these courts?

Mr. LLOYD: If my hon. and gallant Friend knows of any cases in which there are grounds for thinking that a warrant has been issued improperly, I shall be glad if he will send me particulars. My right hon. Friend is considering the institution of inquiries into certain definite aspects of the work of courts of summary jurisdiction, and he thinks that more useful results are likely to be obtained by this means than by any wider inquiry extending over the whole field. [28th July.

The Law Society.

HONOURS EXAMINATION.

JUNE, 1936.

At the Examination for Honours of Candidates for Admission on the Roll of Solicitors of the Supreme Court, the Examination Committee recommended the following as being entitled to Honorary Distinction (the names of the Solicitors to whom the candidates served under articles of clerkship are in parentheses).

FIRST CLASS.

(In order of merit.)

1. Emrys Owain Roberts, B.A. Cantab., LL.B. Wales (Mr. Thomas Winlack Harley, of the firm of Messrs. Simpson, North, Harley & Co., of Liverpool).
2. Walter Cane, B.A., LL.B. Cantab. (Mr. John William Richardson Hargrave, of the firm of Messrs. Willy, Hargrave and Co., of Leeds).
3. Alan Thomas Wilson (Mr. Percy Short, M.A., B.C.L., of the firm of Messrs. Percy Short & Cuthbert, of London).

1. Joseph William Francis Bartholomew (Mr. Edgar Lawrence Newall Tuck, LL.B., of the firm of Messrs. Godden, Hulme & Ward, of London).
1. Richard Neville Dalton Hamilton, LL.B. London (Mr. Guy Robert Crouch, LL.B., of Aylesbury, and Messrs. Pyke, Franklin & Gould, of London).

SECOND CLASS.

(In alphabetical order.)

Richard Henry Bull, B.A. Cantab. (Mr. William Seaford Sharpe, of the firm of Messrs. Sharpe, Pritchard & Co., of London).

John Philip Camm, LL.B. Leeds (Mr. William Lindsay Crawford and Mr. William Forrest Bracewell, LL.B., both of the firm of Messrs. W. Lindsay Crawford & Bracewell, of Doncaster).

John Philip Marshall Carr, LL.B. Manchester (Mr. John Taylor, of the firm of Messrs. John Taylor & Co., of Blackburn and Manchester; and Messrs. Gregory, Rowcliffe & Co., of London).

Denis Chappell, LL.B. Birmingham (Mr. George Pettefar, of the firm of Messrs. Metcalfe, Copeman & Pettefar, of London and Wisbech).

John Wright Cheesbrough (Mr. Amos Craddock, of the firm of Messrs. Kenyon, Son & Craddock, of Thorne).

Hamish Alister Connell, B.A., LL.B. Cantab. (The Rt. Hon. Sir Dennis Henry Herbert, K.B.E., M.A., M.P., of the firms of Messrs. Charles Rawlins & Co. and Messrs. Beaumont & Son, both of London).

John Kendel Daykin, LL.B. London (Mr. Robert Henry Lightfoot Mott, of the firm of Messrs. R. H. L. Mott & Son, of Nottingham).

Alan Dean, LL.B. Leeds (Mr. Donald William Wade, M.A., LL.B., of the firm of Messrs. Booth, Wade, Farr, Lomas-Walker & Colbeck, of Leeds).

George Innes Nootт Dickson (Mr. Vincent Hamilton Dickson, of the firm of Messrs. Dickson, Barnes & Dickson, of Chester; and Messrs. Tamplin, Joseph, Ponsonby, Ryde & Flux, of London).

John Robert Gillespie, B.A., LL.B. Cantab. (Mr. George Tutin, of the firm of Messrs. Tutin & Co., of Nottingham).

John William Ingram Guest (Mr. John Ernest Hallmark, of the firm of Messrs. Henderson & Hallmark, of Llandudno).

Philip Asterley Jones (Mr. Corrie Reid Sharman, M.A., LL.B., of the firm of Messrs. Willes, Gladstone & Reid Sharman, of London).

Gerard Joseph Ignatius Miller, B.A. Oxon (Mr. Richard Wardle Lynn, of the firm of Messrs. Finch, Johnson & Lynn, of Preston).

Samuel Benedict Phillipson, LL.B. Leeds (Mr. John Harry Bromley, of the firm of Messrs. Bromley & Walker, of Leeds).

Manuel Pollecoff, LL.B. Birmingham (Mr. Edward Fricker Freeland, of the firm of Messrs. Freeland & Passey, of Birmingham).

Emrys Simons, LL.B. Leeds (Mr. Thomas Williams, of the firm of Messrs. Thos. Williams & Owen, of Pentre).

Maurice Louis Spector (Mr. Charles Keene, of the firm of Messrs. Chamberlayne, Keene & Co., of London).

William Tweddle, LL.M. Leeds (Mr. Hugh Burton Simpson, of the firm of Messrs. Simpson, Curtis & Burrill, of Leeds).

John Philip Whipp (Mr. Mark Johnson Fletcher, of the firm of Messrs. A. & J. E. Fletcher, of Northwich).

THIRD CLASS.

(In alphabetical order.)

Henry Louis Mackinnon Barnett (Mr. Alan Maxwell Miln, of Chester).

John Rutherford Blaikie (Mr. George Fladgate Finch, O.B.E., of the firm of Messrs. Fladgate & Co., of London).

James William Denning (Mr. John Vale, of the firm of Messrs. Titley, Long & Vale, of Bath).

John Marcus Garforth-Bles (Sir Philip Horace Freeman, K.B.E., M.A., and Mr. Ernest Goddard, both of the firm of Messrs. Peacock & Goddard, of London).

Stephen Whitfield Harland, B.A., LL.B. Cantab. (Mr. George Edward Hunter Fell, of the firm of Messrs. Carleton-Holmes and Co., of London).

Robert Pitts Heaton, LL.B. Liverpool (Mr. William Gordon Pigot, of the firm of Messrs. Ackerley, Son & Pigot, of Wigan).

John Barron Irvine (Mr. Wilfrid Thomas Hayward, of the firm of Messrs. Temperley, Tilly & Hayward, of West Hartlepool).

John Neville Knox (Mr. William Woodward, of Bexley Heath).

Gershon Levy (Mr. James Dudley Percy Gray Bateman; and Lawrence Arthur Wingfield, of the firm of Messrs. Wingfields, Halse & Trustram, both of London).

Michael Dickinson Lister (Mr. Edmund Kell Blyth, M.A., of the firm of Messrs. Blyth, Dutton, Hartley & Blyth, of London).

William John Raleigh Madden, B.A. Cantab. (Mr. Leonard Foster Glanville, of the firms of Messrs. Glanvilles and Messrs. James Allen & Co., both of Portsmouth).

George Henry Mann, LL.B. Liverpool (Mr. Raymond Cliff, of Ainsdale).

Edward Raymond Meeke (Mr. Edwin Tofield, of the firm of Messrs. Tofield & Meeke, of Sheffield).

Denis Neville Moore (Mr. Neville Gregory Moore, of Tewkesbury; and Mr. Walter Wilberforce Jackson, of the firms of Messrs. Wilberforce Jackson & Co., and Messrs. Rowland & Hutchinson, both of Croydon).

Neville Scorah, B.A., LL.B. Cantab. (Mr. Frederick William Scorah, of the firm of Messrs. Arthur Neal, Scorah & Co., of Sheffield; and Messrs. Corbin, Greener & Cook, of London).

Leonard Shibko (Mr. Joseph Lewis Walters, of the firm of Messrs. Phoenix, Levinson & Walters, of Cardiff).

Guy Manning Stewart-Wallace (Mr. Harold Forbes White, of the firms of Messrs. White & Leonard and Nicholls & Co., both of London).

Lawrence James Taylor (Mr. John Whittle and Mr. Robert Robinson, both of the firm of Messrs. John Whittle, Robinson and Bailey, of Preston).

William James Cook Taylor (Mr. Thomas Lyon Hurst, of Liverpool).

Christopher Thomas Witherby, LL.B. London (Mr. Ernest Lewin Chapman and Sydney Curtis Leman, of the firm of Messrs. Leman, Chapman & Harrison, of London).

William Edward Barlow Wordsworth, B.A., LL.B. Cantab. (Mr. Henry Reed, of the firm of Messrs. Broomhead, Wightman & Reed, of Sheffield).

The Council of The Law Society have accordingly given a Class Certificate and awarded the following prizes:—

To Mr. Roberts—The Clement's Inn Prize—Value about £42.

To Mr. Cane—The Daniel Reardon Prize—Value about £21.

To Mr. Wilson—The Clifford's Inn Prize—Value £5 5s.

To Mr. Bartholomew and Mr. Hamilton—each The New Inn Prize—Value £5 5s.

The Council have given Class Certificates to the candidates in the Second and Third Classes.

Two hundred and forty-five candidates gave notice for Examination.

Societies.

Gray's Inn.

SCHOLARSHIPS.

The following awards have been made to members of the society by the Benchers of Gray's Inn:—

Lord Justice Holker Senior Scholarships (each of £200 a year for three years) to Miss E. A. Hearn of St. Hugh's College, Oxford, and Mr. J. M. Keidan, of St. John's College, Cambridge, Students of the Society.

Lord Justice Holker Awards (each of £100 a year for three years) to Mr. G. A. Forrest of St. Edmund Hall, Oxford, and Mr. G. P. Wethered, Members of the Society.

The Bacon Scholarship (£100 a year for three years) to Mr. R. P. Colinvaux, of King's College, London, and

The Holt Scholarship (£100 a year for three years) to Mr. T. B. Smith, of Christ Church, Oxford.

Solicitors' Benevolent Association.

The monthly meeting of the directors was held on the 1st July, at No. 60 Carey Street, London, W.C.2, with Mr. C. S. Bigg (Leicester) in the chair. The other directors present were Sir A. Norman Hill, Bart., Sir Edmund Cook, C.B.E., and Messrs. F. E. F. Barham, P. D. Botterell, C.B.E., A. J. Cash (Derby), T. S. Curtis, E. F. Dent, R. Epton (Lincoln), A. G. Gibson, G. Keith, C. W. Lee, J.P., C. G. May, A. R. Moon (Manchester, R. C. Nesbitt, W. N. Riley (Brighton), F. S. Stancliffe (Manchester), A. W. Turnbull (Shrewsbury), A. B. Urmston (Maidstone), and the Secretary. The sum of £983 was distributed in grants to necessitous cases; thirty-eight new members were admitted, and other general business was transacted.

The Hardwicke Society.

The annual general meeting of the Hardwicke Society was held in the Middle Temple Common Room, on Friday, 24th July. The Hon. Secretary's report and the revenue account and balance sheet for the year 1935-1936 were approved. Assets were shown at £544 10s. 10d. The officers elected for the year 1936-1937 are: Mr. James A. Petrie, President; Mr. G. E. Llewellyn Thomas, Hon. Treasurer; and Mr. Lewis Sturge, Hon. Secretary. The following were elected members of the Committee: Mr. J. Reginald Jones, Mr. A. A. Baden Fuller, Mr. A. P. McNabb, Miss Dorothy Knight Dix, Mr. J. A. Grieves and Mr. Campbell Prosser.

The Manchester Law Society.

The ninety-seventh annual meeting of the Society was held at the Law Library, Kennedy Street, on 21st July, Mr. Willis Paterson, the retiring President, being in the chair.

The Report of the Council presented at the meeting showed that during the year there had been twelve Council Meetings and twenty-eight Committee Meetings, at which a large number of matters had been considered. Three opinions had been expressed on cases submitted by members, all of which dealt with questions of costs.

In conjunction with the Incorporated Law Society of Liverpool, the Council had made further representations in support of the general principle that the costs of attendance of country solicitors at trials in London should be allowed as a matter of course unless for some good cause the judge at the trial should see fit to order otherwise. The Council considered that quite inadequate effect had been given to the resolution on the subject passed by the Associated Provincial Law Societies in 1933 and that a legitimate sense of grievance was still felt by country solicitors and their clients. A letter was forwarded to the Lord Chancellor, the Lord Chief Justice and the President of the Probate, Divorce and Admiralty Division in December last requesting that a deputation should be received, but the request was not granted.

During the year the rules of the Poor Man's Lawyer Association, with which the Society was closely associated, had been

carefully reviewed, and it was hoped that the improved co-ordination and supervision of the four branches in the district which would result would further increase the scope and usefulness of this voluntary work which had already been carried on for over forty-six years. The Report of the Committee of the Association showed that in a period of less than a full year 3,568 interviews had been granted in connection with 2,562 different cases.

The work of the Poor Persons Committee was also steadily increasing, and during the year there had been nearly 4,000 interviews at the office of the Committee, and nearly 2,500 letters and postcards dispatched in connection with its work. One hundred and twenty-two applications had been granted.

The Report of the Council also contained particulars of Scholarships and Prizes awarded during the year to the total value of over £100.

The retiring President in his address said that the year on the whole had been uneventful. On the question of compulsory registration, it was, he said, difficult to see that any material advantage would result to vendors or purchasers of land in the Manchester district, where sales on chief rents were frequent as there would probably have to be on each sale a deed off the register which would mean additional costs to the usual registry fees.

Mr. PATERSON, in appealing for a still larger membership of The Law Society, said that if the Society could speak as the mouthpiece of every solicitor, its position would be far stronger, and it would be able to take a firmer line of action than it could do at the present time. A perusal of the Annual Report of The Law Society would show how unjustified was the statement, not infrequently made, that the Society did nothing to help the ordinary struggling practitioner. The recent restoration of the 33⅓ per cent. addition to costs was due for instance to the efforts of The Law Society, and could not have been obtained by solicitors acting individually. The same remarks applied to their own Society, whose duties were numerous and which carried out a work which was absolutely necessary to maintain the prestige and efficiency of the profession in the city.

He hoped that every solicitor in the district would be willing to subscribe to the Solicitors' Benevolent Association, which was the profession's own charity and rendered very valuable assistance to fellow solicitors and their dependents who had fallen by the way.

A great deal of voluntary work was done by the profession for which it hardly ever received public acknowledgment. Not only was much work willingly done without reward for charitable societies and institutions, but the work carried out under the Poor Persons Rules and by the Poor Man's Lawyer Association was steadily increasing and should be more widely spread among solicitors locally.

While it had not been found possible to extend the Poor Persons Rules beyond the High Court, he earnestly hoped that some means could be found to assist litigants in the county courts without throwing an impossible burden on the profession.

In conclusion Mr. Paterson expressed his thanks to the Honorary Secretary and to the members of the Council for their loyal support during his year of office as President, which he had felt it a great honour to hold.

For the ensuing year Mr. T. A. Higson (known to a wide public as one of the Test Match Selectors) was elected President, Mr. C. F. Morgan, Vice-President, and Messrs. W. E. M. Mainprice and A. H. Goulty were re-elected for the eighth year as Hon. Treasurer and Hon. Secretary respectively.

The meeting terminated with a hearty vote of thanks to the retiring President for his services in the past year.

Society of City and Borough Clerks of the Peace.

The annual meeting of the above Society was held on the 6th July, at the Maid's Head Hotel, Norwich. The President, Dr. E. I. Watson, Clerk of the Peace, Norwich, was in the chair. The following officers were elected for the ensuing year: President, A. A. G. Jones (Gloucester); Vice-President, W. C. Tyrrell (Ludlow); Treasurer, G. C. Peake (Leeds); Hon Secretary, E. M. Redhead (Manchester); Committee: H. B. Chapman (Burton-on-Trent), W. H. Day (Maidstone), J. W. R. Punch (Middlesbrough), S. Burrows (Cambridge), G. E. Smith (Sheffield), T. E. Toller (Leicester), Dr. E. I. Watson (Norwich), and Dr. H. Woodhouse (Hull).

Gloucestershire and Wiltshire Incorporated Law Society.

The annual meeting of this Society was held at Cheltenham, on 15th July, under the chairmanship of the President, Mr. J. W. Pooley, of Swindon. There were a large number of other members present. After the minutes of the last annual meeting had been read and confirmed, the annual report and accounts were received and adopted. Mr. P. Haddock, of Cheltenham, was elected President, and Mr. R. J. Mullings, of Cirencester, Vice-President for the ensuing year. The General Committee, Library Committee, and Poor Persons Cases Committee were appointed. Charitable grant amounting to £21 was voted, and also a donation of £21 to the funds of the Solicitors Benevolent Association. The membership of the Society is now 162.

Long Vacation, 1936.

HIGH COURT OF JUSTICE.

NOTICE.

During the Vacation, up to and including Sunday, 6th September, all applications "which may require to be immediately or promptly heard," are to be made to the Hon. Mr. Justice BUCKNILL.

COURT BUSINESS.—The Hon. Mr. Justice BUCKNILL will, until further notice, sit in Probate, Divorce and Admiralty Court III, Royal Courts of Justice, at half-past 10 on Wednesdays, commencing on Wednesday, 5th August, for the purpose of hearing such applications of the above nature, as, according to the practice in the Chancery Division, are usually heard in Court.

PAPERS FOR USE IN COURT—CHANCERY DIVISION.—The following Papers for the Vacation Judge are required to be left with the Cause Clerk in attendance at the Chancery Registrar's Office, Room 136, Royal Courts of Justice, before 1 o'clock, two days previous to the day on which the application to the Judge is intended to be made:—

1.—Counsel's certificate of urgency or note of special leave granted by the Judge.

2.—Two copies of notice of motion, one bearing a 5s. impressed stamp.

3.—Two copies of writ and two copies of pleadings (if any).

4.—Office copy affidavits in support, and also affidavits in answer (if any).

No Case will be placed in the Judge's Paper unless leave has been previously obtained or a Certificate of Counsel that the Case requires to be immediately or promptly heard, and stating concisely the reasons, is left with the papers.

N.B.—Solicitors are requested when the application has been disposed of, to apply at once to the Judge's Clerk in Court for the return of their papers.

URGENT MATTERS WHEN THE JUDGE IS NOT PRESENT IN COURT OR CHAMBERS.—Application may be made *in any case of urgency* to the Judge personally (if necessary), or by post or rail, prepaid, accompanied by the brief of Counsel, office copies of the affidavits in support of the application, and also by a Minute, on a separate sheet of paper, signed by Counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows:—"Chancery Official Letter: To the Registrar in Vacation, Chancery Registrar's Office, Royal Courts of Justice, London, W.C.2."

The address of the Vacation Judge can be obtained on application at Room 136, Royal Courts of Justice.

CHANCERY CHAMBER BUSINESS.—The Chancery Chambers will be open for Vacation business on Tuesday, Wednesday, Thursday and Friday in each week, from 10 to 2 o'clock.

KING'S BENCH CHAMBER BUSINESS.—The Hon. Mr. Justice BUCKNILL will sit for the disposal of King's Bench Business in Probate, Divorce and Admiralty Court III at half-past 10 on Tuesday in each week.

PROBATE AND DIVORCE.—Summonses will be heard by the Registrar at the Principal Probate Registry, Somerset House, every day during the Vacation at 11.15 (Saturdays excepted).

Motions will be heard by the Registrar on Wednesdays, the 12th and 26th August, and the 9th and 23rd September, at the Principal Probate Registry at 12.15.

Decrees will be made absolute on each Wednesday during the Vacation, except Wednesday, the 7th October.

All papers for making Decrees absolute are to be left at the Contentious Department, Somerset House, on the preceding Thursday, or before 2 o'clock on the preceding Friday. Papers for Motions may be lodged at any time before 2 o'clock on the preceding Friday.

The Offices of the Probate and Divorce Registries will be opened at 10 a.m. and closed at 4 p.m. except Saturdays, when the Offices will be opened at 10 a.m. and closed at 1 p.m.

Royal Courts of Justice,
Room 136.

Legal Notes and News.

Honours and Appointments.

The King has been pleased, on the recommendation of the Secretary of State for Scotland, to whom the names were submitted by the Lord Justice General, to approve of the rank and dignity of King's Counsel to his Majesty in Scotland being conferred on Mr. WILLIAM GARRETT, advocate; Mr. JAMES GORDON MCINTYRE, M.C., advocate; Mr. GEORGE REID THOMSON, advocate; Mr. JAMES LATHAM MCDAIRMID CLYDE, advocate; and Mr. JOHN CAMERON, advocate. Mr. Garrett was admitted to the Faculty of Advocates in 1914, Mr. McIntyre and Mr. Thomson in 1922, and Mr. Clyde and Mr. Cameron in 1924.

Mr. J. P. EDDY, K.C., has been appointed Recorder of West Ham in succession to the late Mr. Holford Knight, K.C. Mr. Eddy was called to the Bar by the Middle Temple in 1911, and took silk this year.

Mr. ALBERT JONES, Deputy Town Clerk of Crewe, has been appointed Deputy Town Clerk of Stretford. Mr. Jones was admitted a solicitor in 1931.

Professional Announcements.

(2s. per line.)

SOLICITORS & GENERAL MORTGAGE & ESTATE AGENTS ASSOCIATION.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office: 12, Craven Park, London, N.W.10.

Notes.

The Court of Common Council recently voted a further sum of £2,000 to complete work on the electrical installation at the Central Criminal Court. Last March it wsa reported that the installation had become obsolete and was in a dangerous condition, requiring urgent attention at a cost "not exceeding £10,500."

The General Purposes Committee of the London County Council recommend that, on the retirement of Mr. H. M. Hooke, the Council's Parliamentary officer, on 31st December, the present parliamentary and solicitor's department should be merged. The new department is to be called the Legal and Parliamentary Department, with Mr. J. R. Howard Roberts, the present solicitor, at its head.

Newport (Mon.) Town Council decided recently to make a compulsory order for the purchase of eight acres of land and certain buildings at Clytha Park. It is proposed to build a civic centre on the site at an estimated cost of £400,000. The scheme provides for the erection of a town hall, municipal offices, Assize Courts, with or without judges' lodgings, quarter or petty sessions courts, police headquarters, and a museum and art gallery.

The Council of Legal Education announce the appointment of Mr. Roy Mickel Wilson, Barrister-at-Law, of Gray's Inn, B.A., B.C.L. Oxford; Mr. Stephen Lewis Langdon, Barrister-at-Law, of the Inner Temple, B.A. Oxford; and Mr. Leslie James Morris Smith, Barrister-at-Law, of Gray's Inn, B.A., LL.B. Sheffield, B.C.L. Oxford, formerly Vinerian Scholar, to give practical instruction in the work of the profession at the Inns of Court School of Law to Students preparing for Part II of the Bar Examination.

The forming of a West Midland centre at Birmingham for the application of science in the detection of crime was approved by the Birmingham Watch Committee last Wednesday, says *The Times*. It was reported that for some years a Home Office Committee had been dealing with the general reorganisation of detective services. Birmingham was favoured for the centre mainly because it already had a school for detective training available for other police forces. After a consultation with Home Office officials it is proposed to acquire a site for the centre. The cost will be met by the police forces concerned and by a grant from the Home Office.

PROBATE, DIVORCE AND ADMIRALTY DIVISION.

DIVORCE.

AFFIDAVITS OF VENUE.

The following Practice Note was received this week from the Principal Probate Registry:—

In undefended matrimonial causes in which the filing of an affidavit of venue is required such affidavit shall, on and after the 1st day of October, 1936, be made by the solicitor or the person having conduct of the proceedings, and by a party to the suit only if acting in person.

H. F. O. NORBURY,
27th July, 1936. *Senior Registrar.*

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 13th August, 1936.

	Div. Months.	Middle Price 29 July 1936.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	114½	3 9 10	3 0 5
Consols 2½%	JAJO	85	2 18 10	—
War Loan 3½% 1952 or after	JD	106¾	3 5 7	2 19 3
Funding 4% Loan 1960-90	MN	117½	3 8 1	2 19 4
Funding 3% Loan 1959-69	AO	103½	2 18 0	2 15 10
Funding 2½% Loan 1956-61	AO	93½	2 13 6	2 17 5
Victory 4% Loan Av. life 23 years	MS	116½	3 8 8	2 19 11
Conversion 5% Loan 1944-64	MN	118¾	4 4 2	2 1 9
Conversion 4½% Loan 1940-44	JJ	109½	4 2 2	2 9 2
Conversion 3½% Loan 1961 or after	AO	108	3 4 10	3 0 9
Conversion 3% Loan 1948-53	MS	103¼xd	2 18 1	2 13 7
Conversion 2½% Loan 1944-49	AO	101½	2 9 3	2 5 6
Local Loans 3% Stock 1912 or after	JAJO	96½	3 2 2	—
Bank Stock	AO	377	3 3 8	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	87¾	3 2 8	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96¼	3 2 4	—
India 4½% 1950-55	MN	116½	3 17 3	3 0 9
India 3½% 1931 or after	JAJO	99½	3 10 4	—
India 3% 1948 or after	JAJO	87½	3 8 7	—
Sudan 4½% 1939-73 Av. life 27 years	FA	118	3 16 3	3 9 3
Sudan 4% 1974 Red. in part after 1950	MN	116	3 9 0	2 12 4
Tanganyika 4% Guaranteed 1951-71	FA	113½	3 10 6	2 16 5
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109	4 2 7	2 14 0
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	96	2 12 1	2 15 6
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	109	3 13 5	3 7 0
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	104	3 12 2	3 6 9
Canada 4% 1953-58	MS	111½	3 11 9	3 2 4
*Natal 3% 1929-49	JJ	101	2 19 5	—
*New South Wales 3½% 1930-50	JJ	100	3 10 0	3 10 0
*New Zealand 3% 1945	AO	100½	2 19 8	2 18 8
Nigeria 4% 1963	AO	114	3 10 2	3 4 4
*Queensland 3½% 1950-70	JJ	101	3 9 4	3 8 0
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 5
*Victoria 3½% 1929-49	AO	101	3 9 4	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	98	3 1 3	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	106½	3 5 9	2 19 8
Leeds 3% 1927 or after	JJ	94	3 3 10	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	106	3 6 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	80	3 2 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	95	3 3 2	—
Manchester 3% 1941 or after	FA	96	3 2 6	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100½	2 9 9	—
Metropolitan Water Board 3% "A" 1963-2003	AO	97	3 1 10	3 2 1
Do. do. 3% "B" 1934-2003	MS	98½	3 0 11	3 1 1
Do. do. 3% "E" 1953-73	JJ	100	3 0 0	3 0 0
Middlesex County Council 4% 1952-72	MN	114	3 10 2	2 17 10
† Do. do. 4½% 1950-70	MN	116	3 17 7	3 1 6
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	106½	3 5 9	3 3 5
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	114½	3 9 10	—
Gt. Western Rly. 4½% Debenture	JJ	124½	3 12 3	—
Gt. Western Rly. 5% Debenture	JJ	136½	3 13 3	—
Gt. Western Rly. 5% Rent Charge	FA	133½	3 14 11	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	133	3 15 2	—
Gt. Western Rly. 5% Preference	MA	122	4 2 0	—
Southern Rly. 4% Debenture	JJ	113½	3 10 6	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	111½	3 11 9	3 6 8
Southern Rly. 5% Guaranteed	MA	132½	3 15 6	—
Southern Rly. 5% Preference	MA	122	4 2 0	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

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